

EXHIBIT A

EXHIBIT A

**Resolution of the Board of Directors
of
Labor Smart Inc.**

WHEREAS, a special meeting of the Board of Directors of Labor Smart Inc. (the "Company") was noticed to Toby McBride, Michael Holley, Jason Tucker and Joseph Pavlik on November 4, 2022 via email;

WHEREAS, on November 7, 2022 at 9:00 a.m. MST, Michael Holley, Toby McBride, and Joseph Pavlik appeared by conference call;

WHEREAS, Several minutes before the time of the call, Veronica Manolio, Esq., had communicated by e-mail to Matthew P. Canini, Esq., counsel for Mike Holley, and Jennifer Reiter, Esq., counsel for Toby McBride, that neither she nor her client Jason Tucker would be appearing at the meeting;

WHEREAS, Veronica Manolio also represents Joseph Pavlik and, as such, Mr. Canini and Ms. Reiter immediately departed the call before the meeting commenced and did not participate in any portion of the meeting;

WHEREAS, On September 13, 2021, pursuant to Section 10 of the Company's bylaws and by unanimous exercise of all 51 shares of the Company's Series A Preferred Stock of which Michael Holley owns 17 shares, Jason Tucker owns 17 shares, and Joseph Pavlik owns 17 shares, the Shareholders of the Company by a vote of 19,283,582,170 out of a total 29,282,150,656 available votes (66%) filled the Company's vacant director positions by appointing Toby McBride, Jason Tucker and Michael Holley as directors of the Company;

WHEREAS, on December 21, 2021, by motion of Jason Tucker the Board of Directors of the Company convened and by a vote of Toby McBride, Jason Tucker, and Joseph Pavlik resolved and did attempt to remove Michael Holley as a Director of the Company, and as a director and officer of the Company's wholly owned subsidiary Takeover Industries, Inc. ("TI") (the "December 2021 Meeting");

WHEREAS, Michael Holley was hospitalized with COVID-19 at the time of the December 2021 Meeting, and was known by Jason Tucker, Toby McBride and Joseph Pavlik to have been hospitalized, and he did not receive notice of the December 2021 Meeting, attend the Meeting, vote on the issues raised thereat, or subsequently ratify any actions taken at that Meeting;

WHEREAS, Joseph Pavlik was not a Director of the Company at the time of the December 2021 Meeting, but voted at the December 2021 Meeting;

WHEREAS, pursuant to N.R.S. 78.335 titled “Directors: Removal; filling vacancies,” a director can, in most circumstances, only be removed by a two-thirds vote of the shareholders;

WHEREAS, pursuant to Wyoming Stat. 17-16-808(d) titled “Removal of Directors” a director may be removed by the shareholders only at a shareholder meeting called for that purpose;

WHEREAS, the Company never convened a shareholder meeting for the purpose of removing directors of the Company under either Nevada or Wyoming law;

WHEREAS, even had Jason Tucker, Joseph Pavlik and Toby McBride voted their Common and Series A Preferred shares at the December 21, 2021 Meeting, which they did not, their votes, including their exercise of 34 of the Company’s Series A Preferred shares, would only have represented 12,445,721,447 of the 29,282,150,656 available votes (42.54%), which is not enough to remove a director under either Nevada or Wyoming law;

WHEREAS, based on the foregoing the actions taken at the December 2021 Meeting were unauthorized and not in conformity with the law or Company Bylaws;

WHEREAS, by virtue of Holley being unlawfully frozen out from the Board of Directors actions taken by the Board of Directors subsequent to the December 2021 Meeting are ultra-vires;

WHEREAS, during the December 2021 Meeting, Jason Tucker claimed Michael Holley had committed various improprieties, including theft and embezzlement;

WHEREAS, during the December 2021 meeting Jason Tucker attempted to cause the Company to transfer Holley’s shares in the Company to other individuals, including himself;

WHEREAS, at the direction of Jason Tucker, TI commenced a lawsuit against Michael Holley in the Central District of California and later in the District of Arizona (the “Lawsuit”);

WHEREAS, during the course and time frame of the Lawsuit information was made available to Jason Tucker, Toby McBride, and Joseph Pavlik based on which Toby McBride and Joseph Pavlik now understand that their actions at the December 2021 Meeting were a nullity and not in conformity with the law and Company Bylaws;

WHEREAS, based on information obtained during the lawsuit, Toby McBride and Joseph Pavlik now understand that Jason Tucker’s allegations against Michael Holley were wrong and for the purpose of attempting to personally enrich Jason Tucker;

WHEREAS, since Michael Holley was frozen out of the Company and TI, Tucker has engaged in wrongful conduct, and failed to meet his fiduciary duties, as President and Director of TI and a Director of the Company, including withholding information from undisputed officers and directors, subverting the directions of TI's CEO, hiring vendors without approval that only answer to Jason Tucker, and keeping secret TI's financial situation, which is not in the best interest of TI's shareholders;

WHEREAS, Jason Tucker has been untruthful to other Officers and Directors of the Company and TI concerning material information regarding investors, products, and sales, which is not in the best interests of TI and Company shareholders;

WHEREAS, Jason Tucker has instructed others at TI not to communicate with other TI Officers and Directors, which is not in the best interests of TI and Company shareholders;

WHEREAS, Jason Tucker has caused TI to fail to honor its contractual obligations, leading to potential, threatened, and/or actual claims and/or litigation against TI, which is not in the best interests of TI and Company shareholders;

WHEREAS, Eric Bjorgum has previously been retained to do legal work for the Company;

WHEREAS, at the November 7, 2022 Meeting a quorum was present;

WHEREAS, at the November 7, 2022 Meeting the foregoing matters were discussed and all directors had a full and fair opportunity to ask questions and be heard;

WHEREAS, given the dispute in the Lawsuit and Joseph Pavlik's vote at the December 2021 Meeting, he was invited to attend and participate in the November 7, 2022 meeting and, although not a director of the Company, indicate what his vote would be if he were a Director;

THEREFORE, IT IS:

RESOLVED, all actions Taken at the December 21, 2021 meeting to the extent they were ever effective are voided;

RESOLVED, Michael Costello is suspended from his position as CEO of the Company for a period of thirty days, with pay, and his authority to act on behalf of the Company is in all aspects revoked during this period;

RESOLVED, Michael Costello shall turn over to the Board of Directors of the Company all accounts, documents, passwords or other material belonging to the Company;

RESOLVED, the Board of Directors shall conduct a review of Michael Costello's actions from the period September 1, 2021 to the date hereof;

RESOLVED, the Board of Directors shall reconvene in thirty-days to discuss Michael Costello's position at LTNC;

RESOLVED, Michael Holley is appointed interim CEO of the Company until the Board Directors makes a determination with respect Michael Costello;

RESOLVED, Jason Tucker shall immediately turn over to the Board of Directors all contracts, documents, information, communications, passwords and financial accounts of the Company;

RESOLVED, Eric Bjorgum shall immediately turn over to the Board of Directors all contracts, documents, information, communications, passwords and financial accounts of the Company;

RESOLVED, the Board of Director will conduct a review of all actions taken by the Company since September 21, 2021 to the present;

RESOLVED, the Board of Directors shall conduct a review of all actions taken by Jason Tucker from September 21, 2021 to the present;

RESOLVED, Eric Bjorgum is terminated as the Company's counsel;

RESOLVED, the Board of Directors will conduct a review of the Lawsuit;

RESOLVED, the planned spinoff of Takeover is suspended for ninety days, while the Company undertakes a review of documents and information concerning the transaction, which have been withheld by Jason Tucker;

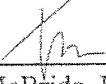
RESOLVED, effective immediately, by exercise of a vote of the shares of TI owned by the Company, which is between 97.345% and 100% of all issued and outstanding shares of TI, the Company hereby removes Jason Tucker from TI's board of directors and appoints Michael Holley to replace him.

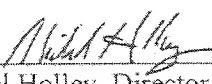
RESOLVED, Joseph Pavlik and Toby McBride shall remain on TI's board of directors; and

RESOLVED, TI's board of directors is to meet immediately for the purpose of taking corrective action regarding the matters discussed at the November 7, 2022 meeting.

IN WITNESS WHEREOF, the undersigned, being two of the three Directors of the Company Agree, Approve and Adopt the foregoing resolutions as of November 7, 2022 following the duly noticed meeting of the Board of Directors held on this date.


Joseph Pavlik, Observer


Toby McBride, Director


Michael Holley, Director

**WRITTEN CONSENT
BOARD OF DIRECTORS OF TAKEOVER INDUSTRIES, INC**

The undersigned, constituting the Board of Directors of Takeover Industries, Inc., a Nevada Corporation ("Takeover"), does in lieu of convening a meeting hereby waive notice and approve and consent to the adoption of the following resolutions pursuant to N.R.S., 78.010 *et seq.*

WHEREAS, a special meeting of the Board of Directors of Labor Smart, Inc. ("LTNC"), Takeover's parent corporation, was held on November 7, 2022.

WHEREAS, the Board of Directors of Takeover (the "Board") was instructed by Resolution of the Board of Directors of LTNC to "meet immediately for the purpose of taking corrective action regarding the matters discussed at the November 7, 2022." See Exhibit A.

WHEREAS, the Board has determined Jason Tucker has been untruthful to other Officers and Directors of Takeover concerning material information regarding investors, products, and sales, which is not in the best interests of Takeover;

WHEREAS, the Board has determined that Jason Tucker has acted in breach of corporate formalities and in breach of his fiduciary duties;

WHEREAS, the Board has determined Jason Tucker has instructed others at Takeover not to communicate with other Takeover Officers and Directors, which is not in the best interests of Takeover; and

WHEREAS, the Board has determined Jason Tucker has caused Takeover to fail to honor its contractual obligations, leading to potential, threatened, and/or actual claims and/or litigation against Takeover, which is not in the best interests of Takeover.

NOT THEREFORE, it is

1. **RESOLVED**, Jason Tucker is suspended from all position he holds at Takeover, including President for a period of thirty days, with pay, and his authority to act on behalf of Takeover is in all aspects revoked during this period;
2. **RESOLVED**, Melissa Tucker is suspended from all her positions at Takeover for a period of thirty days, with pay, and her authority to act on behalf of Takeover is in all aspects revoked during this period;
3. **RESOLVED**, Jason and Melissa Tucker shall turn over to the Board all accounts, documents, passwords or other material belonging to Takeover;
4. **RESOLVED**, the Board shall conduct a review of Jason Tucker's actions from the period September 1, 2021 to the date hereof;
5. **RESOLVED**, the Board shall reconvene in thirty-days to discuss Jason Tucker's continuing with Takeover in any capacity;
6. **RESOLVED**, Joseph Pavlik is appointed interim President of the Company until the Board makes a determination with respect Jason Tucker;
7. **RESOLVED**, Toby McBride is reappointed as CEO of Takeover, and any leave of absence or revocation of his authority to act on Takeover's behalf his hereby terminated; and
8. **RESOLVED**, Veronica Manolio, counsel for Takeover, shall immediately turn over to the President and CEO, all contracts, documents, information, communications, passwords and financial accounts of Takeover.

IN WITNESS WHEREOF, the undersigned, being all of the Directors of the Company Agreed, Approve and Adopt the foregoing resolutions as of November 7, 2022.


Joseph Pavlik, Director


Toby McBride, Director, as to Resolutions 1-6, and 8, and abstaining from Resolution 7.


Michael Holley, Director, as to Resolutions 1-7, and abstaining from Resolution 8.

WRITTEN CONSENT
BOARD OF DIRECTORS OF TAKEOVER INDUSTRIES, INC

The undersigned, constituting the Board of Directors of Takeover Industries, Inc., a Nevada Corporation ("Takeover"), does in lieu of convening a meeting hereby waive notice and approve and consent to the adoption of the following resolutions pursuant to N.R.S., 78.010 *et seq.*

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WHEREAS, the Board of Directors of Takeover (the "Board") was instructed by Resolution of the Board of Directors of LTNC to "meet immediately for the purpose of taking corrective action regarding the matters discussed at the November 7, 2022." See Exhibit A.

WHEREAS, the Board has determined Jason Tucker has been untruthful to other Officers and Directors of Takeover concerning material information regarding investors, products, and sales, which is not in the best interests of Takeover;

WHEREAS, the Board has determined that Jason Tucker has acted in breach of corporate formalities and in breach of his fiduciary duties;

WHEREAS, the Board has determined Jason Tucker has instructed others at Takeover not to communicate with other Takeover Officers and Directors, which is not in the best interests of Takeover; and

WHEREAS, the Board has determined Jason Tucker has caused Takeover to fail to honor its contractual obligations, leading to potential, threatened, and/or actual claims and/or litigation against Takeover, which is not in the best interests of Takeover.

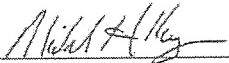
NOT THEREFORE, it is

1. RESOLVED, Jason Tucker is suspended from all position he holds at Takeover, including President for a period of thirty days, with pay, and his authority to act on behalf of Takeover is in all aspects revoked during this period;
2. RESOLVED, Melissa Tucker is suspended from all her positions at Takeover for a period of thirty days, with pay, and her authority to act on behalf of Takeover is in all aspects revoked during this period;
3. RESOLVED, Jason and Melissa Tucker shall turn over to the Board all accounts, documents, passwords or other material belonging to Takeover;
4. RESOLVED, the Board shall conduct a review of Jason Tucker's actions from the period September 1, 2021 to the date hereof;
5. RESOLVED, the Board shall reconvene in thirty-days to discuss Jason Tucker's continuing with Takeover in any capacity;
6. RESOLVED, Joseph Pavlik is appointed interim President of the Company until the Board makes a determination with respect Jason Tucker;
7. RESOLVED, Toby McBride is reappointed as CEO of Takeover, and any leave of absence or revocation of his authority to act on Takeover's behalf his hereby terminated; and
8. RESOLVED, Veronica Manolio, counsel for Takeover, shall immediately turn over to the President and CEO, all contracts, documents, information, communications, passwords and financial accounts of Takeover.

IN WITNESS WHEREOF, the undersigned, being all of the Directors of the Company
Agreed, Approve and Adopt the foregoing resolutions as of November 7, 2022.



Joseph Pavlik, Director



Michael Holley, Director, as to
Resolutions 1-7, and abstaining from
Resolution 8.



Toby McBride, Director, as to
Resolutions 1-6, and 8, and
abstaining from Resolution 7.

EXHIBIT B

EXHIBIT B

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10 *Attorneys for Defendants*

JAMES V. DEPPOLETO JR.,

Plaintiff,

v.

TAKEOVER INDUSTRIES, INCORPORATED *et al.*

Defendant.

Case NO. 2:22-cv-02013-GMN-BNW

**DECLARATION OF TOBY MCBRIDE
IN SUPPORT OF OPPOSITION TO
PLAINTIFF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT**

DECLARATION OF TOBY MCBRIDE

I, Toby McBride declare and state the following under the penalty of perjury:

1 1. I am a citizen of the United States, over the age of 18 years old, of sound mind,
2 make this Declaration based upon personal knowledge, and, if called to testify, would testify
3 competently to the facts set forth herein.
4

5 2. I am a Defendant in the above-entitled case filed by Plaintiff James V. Deppoleto, Jr.

6 3. In 2021, Michael Holley (hereinafter “Holley”) and I incorporated Takeover
7 Industries in Nevada. On or about February 26, 2021, Labor Smart, Inc., acquired Takeover
8 and became a wholly owned subsidiary of Labor Smart. After the acquisition, Holley was
9 named a Director of Labor Smart, as well as Chief Operating Officer and Treasurer of
10 Takeover in addition to sitting on the Board of Directors for Takeover. At that time I was the
11 CEO of Takeover and director of Labor Smart and Takeover.
12

13 4. At that time, Joseph Pavlik (hereinafter “Pavlik”) served as Chief Science
14 Officer and a Board of Directors member for Takeover, as well as an Officer for Labor Smart.
15 It was at this point that Jason Tucker (hereinafter “Mr. Tucker”) would begin working with
16 Takeover to assist in building the company’s brand. On June 10, 2021, the Board of Directors
17 of Takeover held a “Special Meeting” which established that the Board of Directors for
18 Takeover moving forward would consist of Holley, Tucker, Pavlik, and me. In or about
19 December 2021, Takeover’s Board of Directors, at the urging of Tucker, held a meeting and
20 voted to remove Holley from the Board due to allegations of mismanagement of Takeover
21 funds, allegations which Holley has vehemently denied. See Exhibit A, Takeover’s Minutes of
22 Special Meeting of Board of Directors.
23

24 5. From the period of May 25, 2022, through August 19, 2022, Plaintiff
25 Deppoleto entered into three claimed Note Purchase Agreements (hereinafter “NPAs”) with
26 Takeover. The Notes were for the total of \$500,000 each signed by Tucker, as president of
27 Takeover, Michael Costello (Chief Executive Officer of Labor Smart) and Plaintiff.
28

29 6. I was, before and after the November 7, 2022 meeting of the Board of Directors of
30 Labor Smart, Inc., the CEO and a director of Takeover Industries, Inc. (“Takeover or the
31

1 "company"), as well as a director of Takeover's parent company Labor Smart, Inc., until I
2 resigned April 17, 2023, replaced by Thomas Zarro.

3 7. Even though Jason Tucker was invited to the November 7, 2022 Board Meeting, he
4 did not attend the meeting. As a result, the Resolution of the Labor Smart, Inc., Board of
5 Directors including Michael Holley, and I was issued. See Exhibit B to Defendant's
6 Opposition to Motion for Partial Summary Judgment filed concurrently herewith.
7

8 8. Joseph Pavlik attended the November 7, 2022 Board Meeting "given the dispute in
9 the Lawsuit and Joseph Pavlik's vote at the December 2021 Meeting (when Pavlik was a
10 director), he was invited to attend and participate in the November 7, 2022 meeting and,
11 although not a director of the Company, indicate what his vote would be were he a Director."
12 See Exhibit B, p. 3.

13 9. Plaintiff Deppoleto was invited to attend the November 7, 2022 meeting, but he did
14 not attend.

15 10. In my work for Takeover from January 2021 until April 17, 2023, I furthered the
16 business through sponsorships and connections with athletes and others in the industry.

17 11. Although I am not an employee, officer or director of Defendant NextGen
18 Beverages, LLC, in my opinion NextGen Beverages, LLC, is not competing with Takeover
19 because the two companies produced different products.

20 12. Attached hereto as Exhibit A is a true and complete copy of Takeover's Minutes
21 of Special Meeting of Board of Directors dated December 28, 2021.

22 13. Attached hereto as Exhibit B is a true and complete copy of the November 7,
23 2022 Resolution of the Board of Directors of Labor Smart Inc., including the November 7,
24 2022 Written Consent Board of Directors of Takeover Industries, Inc.

1 14.I have 30+ years of experience in the beverage industry, working behind at least four
2 major brands of performance waters, iced teas, and similar beverages, which have been sold
3 throughout the nation.

4 I declare under penalty of perjury that the foregoing is true and correct and if called
5 upon as a witness I could and would competently testify thereto.

6 Dated this 31st day of January 2025.

7 /s/ Toby McBride

8 Toby McBride

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EXHIBIT C

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Attorneys for Defendants

Attorneys for Defendants

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

JAMES V. DEPPOLETO JR.,

Case NO. 2:22-cv-02013-GMN-BNW

Plaintiff,

V

TAKEOVER INDUSTRIES, INCORPORATED, *et al.*

Defendant.

**DECLARATION OF MICHAEL
HOLLEY IN SUPPORT OF
OPPOSITION TO PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

DECLARATION OF MICHAEL HOLLEY

I, Michael Holley state and declare as follows:

I am over the age of eighteen and I am a Defendant in the United States District Court of Nevada case no. 2:22-cv-02013-GMN-BNW. I have personal knowledge of the facts

1 set forth in this Declaration except the information which is set forth herein based on my
2 information and belief, related to this matter.

3 1. I am a Defendant in the above-identified action and make this Declaration based on
4 my personal knowledge.

5 2. I have personal knowledge of the facts stated in this declaration and am competent to testify
6 to them.

7 3. I have worked in the beverage industry since 1994, accumulating 30 years of experience
8 launching and developing successful beverage brands.

9 4. In early 2021, as Chief Operating Officer, I launched Takeover Industries of which I am
10 one of the larger Creditors and also the personal Guarantor of the company credit cards.
11 The company achieved immediate success with our hydrogen water product, generating
12 approximately \$500,000 in revenue during our first weekend of launch.

13 5. In April 2021, Takeover engaged Jason Tucker as a consultant to assist with contract
14 negotiations and intellectual property matters. Tucker represented himself as having
15 expertise in negotiations and claimed prior work experience with federal agencies. These
16 credentials were later discovered to be false.

17 6. Between April and October 2021, I repeatedly addressed concerns with Tucker regarding
18 his conduct, particularly his treatment of team members which was negatively affecting
19 company operations.

20 7. I have personal knowledge that Tucker manipulated a situation involving Joe Pavlik,
21 presenting false evidence to myself and Toby McBride that resulted in Pavlik losing his
22 shares, which Tucker then acquired.

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1 7. Attached to Defendants' Opposition to Plaintiff's Motion for Summary Judgment as
2 Exhibit A is a true and correct copy of the Resolution of the Board of Directors of Labor Smart,
3 Inc, and the Written Consent Board of Directors of Takeover Industries, Inc., dated November
4 7, 2022.
5

6 8. Attached to Defendants' Opposition to Plaintiff's Motion for Summary Judgment as
7 Exhibits H, I, L, M, and N are true and correct copies of documents contained in the Takeover
8 computer files I reviewed after the Board of Directors was reconstituted November 7, 2022,
9 gained access to these Company records including email(s) correspondence, presentation plans,
10 marketing plans and other documents unknown to me prior to December 2022.
11

12 9. In October 2021, while I was hospitalized with Covid-19, Tucker made false accusations
13 about me misappropriating company funds. Though I was later exonerated and reached a
14 settlement with Takeover, Tucker used my absence to gain sole control over company bank
15 accounts and credit cards.
16

17 10. In May 2022, during my forced absence, Tucker executed the first of three convertible note
18 agreements with James Deppoleto without proper board authorization.
19

20 11. Based on my direct knowledge of the alleged 2022 agreements, these convertible notes
21 contained terms that placed Takeover in technical default from the moment of execution.
22

23 12. In November 2022, after my return to the company, we discovered through company
24 communications that Tucker and Deppoleto were engaged in unauthorized negotiations
25 with 5-hour Energy for their personal benefit.
26

27 13. Takeover did not receive any type of refund from Great Northern Company for monies paid
28 by Deppoleto.
29

1 14. Takeover's Account Quick Report dated December 28, 2024, in the amount of
2 \$2,016,697.00, labeled DEF01383 was entered by Takeover's bookkeeper David Eisenberg
3 under the category "loans payable- James Deppoleto," which was the category Tucker
4 initially described these amounts in 2022 , based on my examination of the Takeover
5 records.

6
7 15. Upon Tucker's removal from the Board, he retained control of critical company assets by
8 refusing to surrender passwords and access to:

- 9
10 a. Company bank accounts
11 b. QuickBooks financial records
12 c. Shopify account
13 d. Social media accounts
14 e. Other vital business platforms

15 16. Tucker continued using company bank accounts through December 2022, leaving them
16 with negative balances.
17

18 17. Due to Tucker's mismanagement, Takeover:

- 19 a. Lost the NXTL LVL trademark
20 b. Faced multiple demands from vendors totaling millions of dollars
21 c. Could not attract new investors due to pending litigation
22 d. Accumulated substantial debt
23

24 18. The formation of Next Gen Beverages was undertaken to protect shareholder interests and
25 create new value after Takeover's trademark loss and mounting legal challenges made
26 continuing business operations impossible under that entity. Takeover had little to no assets
27 left which none were used for Next Gen. Next Level Fitness water filed the trademark
28

1 months before Takeover did. They filed an action with the trademark commission and later
2 a lawsuit against Takeover.

3 19. Through our efforts with NextGen, we made the stock tradeable, enabling Deppoleto to
4 potentially realize value from approximately 400 million shares he possessed. Today these
5 shares were trading @.0018 which is a value of \$720,000.00.

6 20. I have read Defendants' Opposition to Plaintiff's Motion for Partial Summary Judgment
7 and hereby confirm that the facts set forth in the Opposition are true and correct to the best
8 of my knowledge other than the information I confirm based on my information and belief.
9

10 I declare under penalty of perjury that the foregoing is true and correct and if called
11 upon as a witness I could and would competently testify thereto.
12

13 Dated this 31st day of January 2025.

14 /s/ Michael Holley

15 Michael Holley

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EXHIBIT D

EXHIBIT D

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Attorneys for Defendants

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

JAMES V. DEPPOLETO JR.,

Plaintiff,

V

TAKEOVER INDUSTRIES,
INCORPORATED, *et al.*
Defendant.

Case NO. 2:22-cv-02013-GMN-BNW

**DECLARATION OF JOSEPH PAVLIK
IN SUPPORT OF OPPOSITION TO
PLAINTIFF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT**

DECLARATION OF JOSEPH PAVLIK

J. Joseph Pavlik state and declare as follows:

I am over the age of eighteen and I am a Defendant in the United States District Court of Nevada case no. 2:22-cv-02013-GMN-BNW. I have personal knowledge of the facts

1 set forth in this Declaration and will testify if called to do so, except those matters which are
2 based upon my information and belief in this matter.

3 I have been self-employed, since 2005, through Flexus, LLC, and I have provided
4 consulting services and work for Takeover Industries, Inc., ("Takeover") since on or about
5 January 2021 and LOCK'DIN OR NextGen Beverage, LLC, ("NextGen") since June 2023.

6 Toby McBride, Michael Holley and I founded Takeover Industries, Inc.,("Takeover") in
7 January 2021. The scope of my work primarily consists, and consisted of, creating formulas,
8 intellectual property of the products, assisting with education, sales, and distribution, which
9 was required to help the company market and sell its products.
10

11 Two Takeover products were sold under the brand name NXT LVL: 1-Hydrogen water;
12 and 2- A two-ounce energy shot known as a Gamer shot. Those were the only two products
13 sold under the brand name NXT LVL through Takeover.
14

15 In 2021 I served as the Chief Science Officer ("CSO") of Takeover creating the
16 formulas or recipes for the two-ounce energy shot known as a Gamer shot and the Hydrogen
17 water products. During this period of time I also served as CEO of Labor Smart (also known as
18 LTNC) the parent company of Takeover.
19

20 I resigned my CSO position from Takeover in September of 2021 because of
21 harassment by Jason Tucker ("Tucker"). At that time I also resigned as CEO of Labor Smart.
22

23 In March 2021, Labor Smart purchased Takeover, issuing a total of 6 billion shares, 2
24 billion shares each to Toby McBride, Mike Holley and me.
25

26 In January 2022, I was asked to rejoin the company by Toby McBride("McBride") after
27 Mike Holley ("Holley") was allegedly removed as an officer and director of Takeover in
28 December 2021.

1 On April 28, 2022, at a Professional Fighters League (“PFL”) event in Dallas, Texas,
2 Plaintiff James Deppoleto, Jr. (“Plaintiff”) was introduced to me and Toby McBride by
3 Plaintiff’s cousin and PFL fighter Anthony Pettis. At that time I first discussed with Plaintiff
4 the science, innovation and benefits about Takeover’s products hydrogen infused spring water
5 and the Gamer shot.

6 In May 2022, on a call with McBride, Jason Tucker verbally forced me to return 1.8
7 billion of my shares in Takeover back to Takeover, to help payback investors they oversold
8 shares in the company, stating that if I would not comply then there will be no company. I was
9 promised that these 1.8 billion shares would be given back to me. However, these 1.8 billion
10 shares were never returned to me, nor was there any financial compensation of any amount
11 exchanged for this.

12 In or about May 2022, Toby McBride introduced Jason Tucker to Plaintiff. Thereafter,
13 in May 2022, based on my information and belief, Jason Tucker and Plaintiff met for a couple
14 of days in Puerto Vallarta, Mexico regarding Takeover.

15 On or about May 25, 2022, Jason Tucker, as president of Takeover, and Michael
16 Costello, as chief executive officer of Labor Smart, signed a Convertible Note Purchase
17 Agreement with Plaintiff whereby Plaintiff agreed to invest \$500,000.00 in Takeover and
18 participate in good faith with his obligations as an investor in Takeover.

19 On or about June 24, 2022, Plaintiff, Tucker, McBride and I planned to attend another
20 PFL event in Atlanta, Georgia. However, Plaintiff and Tucker avoided meeting with McBride
21 and me and, unknown to me at that time, Plaintiff and Tucker went to a meeting with T-Pain, a
22 famous rapper and would-be promoter of Takeover products.
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1 On or around July of 2022, Tucker informed the founders that there would no longer be
2 weekly company team calls, and that Tucker would be handling all calls “one on one” with
3 each individual.

4 Later it was discovered via email history, that the weekly company Zoom team calls
5 were still indeed being conducted with Depoletto, but without the founders McBride and
6 Pavlik. During this time Depoletto and Tucker, continued to operate separate of the company
7 with the remaining team in concert.

8 On or about the first week of October 2022, the company was set to attend the NACS
9 tradeshow in Las Vegas. I notified Tucker that I would like to attend the NACS event, and I
10 was told that only Mike Costello and Takeover salesman Mike Tzanetatos (“Mike T”) would be
11 attending the show and that no one else would be attending.

12 A few days later a photo was posted on Twitter of Tucker, Plaintiff, Costello and
13 Tzanatatos at the show receiving an award for Gamer Shot. When I called Tucker to inquire
14 about their attendance he said “it was a last minute decision”.

15 After gaining access to Takeover’s company records, including emails, (December
16 2022) we found out that there was a private meeting at the October 2022 NACS Show in Las
17 Vegas with representatives of Living Essentials, the parent company of 5-Hour Energy. At this
18 meeting attended by Plaintiff, Tucker, Costello and Mike T, Tucker presented a co-op joint
19 venture business plan (see Exhibit H, DEF01113 to DEF01135 identified pursuant to a Motion
20 to Seal filed in concert with Defendant’s Opposition and Response to Motion for Partial
21 Summary Judgment) without the knowledge of the founders NOR ALL DIRECTORS AT
22 THAT TIME. These documents were discovered in December 2022, when we (McBride and
23 Holley and I) regained access to some of Takeover’s emails and other Company documents. I
24 hereby confirm that the documents labeled DEF01113 to DEF01135 proposed in Exhibit H to
25 Defendants’ Opposition and Response to Motion for Partial Summary Judgment are true and
26 accurate copies of these documents.

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28

1 While they were at the NACS show I reached out to Plaintiff directly to have a
2 discussion. He responded back by asking me to schedule a call time and an provide an agenda
3 for the call, which I did. In preparing this Declaration I discovered the October 7, 2022 letter I
4 prepared and sent to him regarding a list of eight “Brief Items to Touch on for Discussion.”
5 See Exhibit L, October 7, 2022 letter labeled DEF01459. Also, in preparing this Declaration I
6 discovered a four-page marketing plan for a “NXT LVL Energy Drink” to a “Partnership with
7 Shaquille O’Neal” which states: “Introduce and promote Shaq’s NXT LVL Gamer Energy
8 Drink at Trade Shows & trade publications in Q4 2022.” See Exhibit M, DEF01459 to 01462.
9 These documents include a page titled “Appearances and Social Media on Behalf of NXT LVL
10 Energy Drink. Under the list of Appearance on this page it reads: “Appearances: -NACS
11 Convention and Trade Show; -Rewired Fest for Wal-Mart; -7-11 National Franchisee Show; -
12 Visit National Retailer HQ to meet buyers and CEO secure agreements/partnerships; - Will call
13 CEO’s of national retailers to request that they bring in Shaq’s NXT LVL Energy Drink.” See
14 Exhibit M, DEF01460.

15 On October 7th 2022, when I asked about Deppoleto’s attendance at the NACA show in
16 Las Vegas, he said it was a “last minute decision”. It is my understanding based on my review
17 of Company records that the meeting with Living Essentials/5 Hour was set in advance,
18 however this was not disclosed to me. See Exhibit M, DEF01460.

19 On or about October 10th 2022, I had a call with Tucker, and detecting more
20 inconsistencies and secrecy for reasons related to the last-minute attendance of the show, I
21 sensed something was not right. I was also told that I have a choice to either join their side or I
22 would be included (or “Strapped to the Titanic” as he phrased) in the forthcoming complaints
23 against McBride and Holley.

24 I received notice of the Labor Smart Board Meeting to be held on November 7, 2022.
25 Although I requested that Ms. Manolio attend the meeting as Takeover’s counsel, she informed
26 me that she would not be attending. I did attend and vote on the Board Resolutions at that
27 meeting which are set forth in the “Resolution of the Board of Directors of Labor Smart, Inc.”
28 and the Written Consent of Takeover Board of Directors, dated November 7, 2022.

1 I have read Defendants' Opposition to Plaintiff's Motion for Summary and hereby
2 confirm the truth and validity of the facts set forth therein including the exhibits.
3

4 I declare under penalty of perjury that the foregoing is true and correct and if called
5 upon as a witness I could and would competently testify thereto.
6

Dated this 31st day of January 2025.

7 /s/ Joseph Pavlik
8 Jospeh Pavlik
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EXHIBIT E

EXHIBIT E

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Attorneys for Defendants

15 JAMES V. DEPOLETO JR.,
Plaintiff.

17
18 V.
19
20 TAKEOVER INDUSTRIES,
21 INCORPORATED, *et al.* Defendant.

Case NO. 2:22-cv-02013-GMN-BNW

**DECLARATION OF THOMAS ZARRO
IN SUPPORT OF OPPOSITION TO
PLAINTIFF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT**

DECLARATION OF THOMAS ZARRO

J. Thomas Zarro state and declare as follows:

1. I am over the age of eighteen and I am a Defendant in the United States District Court of Nevada case no. 2:22-cv-02013-GMN-BNW. I have personal knowledge

1 of the facts set forth in this Declaration and will testify if called to do so, except
2 those matters which are based upon my information and belief in this matter.

- 3 2. I am a self-employed entrepreneur, and I made a \$300,000 investment in Takeover
4 Industries, Inc. in June of 2021. I was informed and do believe that I was the first
5 monetary investor in Takeover Industries. My loan document signed by the
6 company expressly stated: No additional debt was allowed without my consent. I
7 was not involved in the operations or management of the Company at that time.
8
9 3. I am currently owed by Takeover Industries approximately \$175,000.00.
10
11 4. Toby McBride, Joe Pavlik, and Jason Tucker would occasionally keep me up to date
12 on the progress of the Company. I was told by Tucker that they were working to
13 bring the Company current so that it could be publicly traded. I was led to believe
14 Deppoleto was part of management of the Company by Tucker.
15
16 5. I became aware that the principals of the Company were having personality conflicts.
17 To protect my investment, I offered my services as a skilled negotiator to assist in a
18 resolution so that the company could move forward. More importantly than
19 protecting my investment, I wanted to protect the 50,000 plus shareholders.
20
21 6. The Company had a board meeting on November 7, 2022, and removed Jason
22 Tucker from his positions at Takeover due to gross misconduct by him based on my
23 information and belief.
24
25 7. Tucker was ordered by Board resolution to relinquish control of the bank accounts by
26 November 7, 2022. Based on my information and belief, Tucker refused to hand
27 over control of the Takeover bank accounts and had access up until mid-December
28 of 2022. Based on my information and belief, when the accounts were regained by

1 the new board of directors establish November 7, 2022, all the accounts had
2 negative balances. Based on my information and belief, due to Tucker's
3 misconduct, all employees were laid off from the company.

4 8. On April 17, 2023, I became an officer and director of Takeover, when Toby
5 McBride resigned. I uncovered that the Company was being badly mismanaged by
6 Jason Tucker and Deppoleto. I reached out to vendors and suppliers, as they refused
7 to do business with Takeover any longer because of issues with Tucker and
8 Deppoleto.

9 9. Based on my information and belief Tucker and Deppoleto wanted to take the
10 Company private, and wanted to move forward with the private entity with the
11 product known as the "gamer shot." The other principals wanted to keep the
12 Company public and move forward with the hydrogen water.

13 10. I became aware through dealing with the supplier, Faith Springs, that Tucker and
14 Deppoleto threatened suit against Faith Springs for claims of a sulphury smell in
15 one of the water products. Instead of working with the supplier and trying to fix this
16 issue, formal demands were made, and suits were threatened.

17 11. Because of the mismanagement by Tucker, Takeover became mired in multiple
18 litigations. There was no product being produced and no revenue. After consulting
19 with counsel, it was decided the only way to save the parent company, Labor Smart
20 Inc.'s ownership and creditors (of which I am and remain unpaid) of Takeover, was
21 to make a wholly owned subsidiary with a new line of beverages.

22 12. I became CEO of Labor Smart in April of 2023, and we voted to set up the
23 Company, Next Gen Beverages on June 14, 2023. Due to Tucker and Deppoleto's
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1 malfeasance, Next Gen had to pay to get new trademarks, new formulations, new
2 brands, and a new website. No assets from Takeover Industry were used to
3 establish Next Gen Beverages or used in the purchase of its assets.

4 13. Next Gen Beverages was necessary because Tucker and his associates controlled
5 and refused to turn over access to the following of Takeover's:

- 6 a. The Company Bank Accounts
- 7 b. The Shopify Account
- 8 c. Amazon
- 9 d. eBay
- 10 e. Gamershot URL and other websites purchased by Tucker. Tucker has made
11 claims that the Tucker's own these, and they are not the property of
12 Takeover, however Bank records show payment towards the URL.
- 13 f. QuickBooks Access and the financial records.
- 14 g. All social media accounts
- 15 h. All business platforms necessary in the ordinary course of business

16 14. Further, Tucker and Deppoleto's mismanagement caused Takeover to suffer the
17 following major business setbacks:

- 18 a. Loss of the NXTL LVL trademark
- 19 b. Demands from multiple vendors for amounts in excess of a million dollars.
- 20 c. Lost potential investors due to all the pending litigation

21 15. I bought the remaining product from Takeover at higher than cost at a substantial
22 loss to myself. Takeover was un-investible and, in an attempt to protect new money
23 and save Takeover, the inventory was purchased to help the company. Takeover was
24

1 not able to get the product distributed, the only other offers to purchase were
2 pennies on the dollar and there is a shelf-life to the product. I still am in possession
3 of the bulk of the product, as I was also unable to sell it. We tried to sell it for the
4 benefit of Takeover, and we received a cease and desist from Deppoleto.
5

6 16. I met with the accountants engaged by Tucker, ostensibly to bring the Company
7 current. The accountants informed me that Tucker had done none of the things
8 necessary for the Company to be compliant. That is why I re-engaged them, and we
9 all worked together to bring the Company current.

10 17. I met with Takeover suppliers and manufacturers, flying to meet them at my own
11 expense. I was able to negotiate older invoices.

12 18. We have established a new board of directors for LTNC, including world renowned
13 boxing Legend and philanthropist Manny Pacquiao, we have all undergone a strict
14 and thorough background check which has allowed us to hire a securities Company
15 to sponsor us for the filing of a 15(c)(211) which will enhance our global trading.
16 Currently we are publicly traded in the United States. None of these things were
17 done under Tucker and Deppoleto management, once again proving they had no
18 intension of protecting the shareholders.

19 19. My only goal in being involved was to protect Labor Smart, Inc., the shareholders,
20 my previous investment and now my much larger current investment. Mike Holley,
21 Joe Pavlik, and Toby McBride were eager to work to bring the Company current
22 and build a sustainable business which we were able to do in the beginning of 2024.

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1 This was only possible because we left the horrific business practices of Tucker and Deppoleto
2 in the past. We have been current on all our filings since I became involved.

3 I have read Defendants' Opposition for to Plaintiff's Motion for Partial Summary
4 Judgment and confirm the truth and facts set forth therein to my knowledge, and based on my
5 information and belief otherwise.

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7 Dated this 31st day of January 2025.
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9 /s/ Thomas Zarro
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EXHIBIT F

EXHIBIT F

**Resolution of the Board of Directors
of
Takeover Industries, Inc.**

WHEREAS, a special meeting of the Board of Directors of Takeover Industries, Inc. (the “Company”) was held on April 17, 2023, and the following Directors appeared by conference call: Toby McBride, Michael Holley, and Joseph Pavlik. All Directors waived notice requirements for this meeting. McBride abstained and did not participate from the actions below that pertain to his resignation and agreements to which he would be a party.

WHEREAS, Toby McBride (“McBride”) has indicated his wish to resign as a Director and Officer of the Company;

WHEREAS, the Board wishes to accept the resignation of McBride upon those terms and conditions as set forth in that certain CEO Separation Agreement that has been drafted;

WHEREAS, the Board authorizes and instructs the Company to execute the CEO Separation Agreement with McBride;

WHEREAS, upon the resignation of McBride from the Board of the Company, the Board shall appoint Tom Zarro (“Zarro”) as a Director of the Company, and Zarro has indicated his willingness to serve as a Director of the Company;

After discussion, the following resolutions were adopted.

RESOLVED, it is agreed that the Company shall execute the CEO Separation Agreement with McBride;

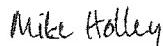
RESOLVED, accepting McBride’s resignation from the Board of the Company, effective at 11:59 pm on April 17, 2023. Zarro is hereby appointed as a member of the Board of the Company effective immediately upon the resignation of McBride.

RESOLVED, that McBride has also resigned as CEO of the Company, effective immediately.

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IN WITNESS WHEREOF, the undersigned, being all of the Directors of the Company Agree, Approve and Adopt the foregoing resolutions as of April 17, 2023.

DocuSigned by:



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Michael Holley, Director

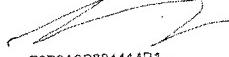
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Toby McBride, Director

DocuSigned by:



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Joseph Pavlik, Director

EXHIBIT G

EXHIBIT G

James V. Deppoleto, Jr. - 12/5/2024
James V. Deppoleto, Jr. vs. Takeover Industries, Inc., et al.

16 Thursday, December 5, 2024

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Reported by: Barbara Clark, CCR No. 953



James V. Depoletto, Jr. - 12/5/2024
James V. Depoletto, Jr. vs. Takeover Industries, Inc., et al.

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21 Also Present: Daniel Holmstock, Exhibit Tech
22 Joseph Pavlik
23
24
25

James V. Deppoleto, Jr. - 12/5/2024
James V. Deppoleto, Jr. vs. Takeover Industries, Inc., et al.

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1 (Exhibits cont.)

2

3 Exhibit 11 Notice of Default, Demand for
Payment & Cease and Desist 91

4 Exhibit 12 NXT LVL/5-hour Energy Accelerator
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James V. Deppoleto, Jr. - 12/5/2024
James V. Deppoleto, Jr. vs. Takeover Industries, Inc., et al.

<p>1 Thursday, December 5, 2024</p> <p>2 10:35 a.m.</p> <p>3</p> <p>4 JAMES V. DEPPOLETO JR.,</p> <p>5 having been administered an oath, was examined and</p> <p>6 testified as follows:</p> <p>7</p> <p>8 EXAMINATION</p> <p>9 BY MR. BENNION:</p> <p>10 Q Please state your name and address for the</p> <p>11 record.</p> <p>12 A James Deppoleto.</p> <p>13 Q Mr. Deppoleto, I'm Don Bennion. I represent</p> <p>14 the Defendants in a case that you filed, Case No.</p> <p>15 2:22-cv-02013-GMN-MDC in the United States --</p> <p>16 (Audio difficulties.)</p> <p>17 (Discussion held off the record.)</p> <p>18 BY MR. BENNION:</p> <p>19 Q Mr. Deppoleto, have you been deposed</p> <p>20 previously?</p> <p>21 A Previously? Previously what?</p> <p>22 Q Have you been deposed? Has your deposition</p> <p>23 been taken before today?</p> <p>24 A No.</p> <p>25 Q Have you ever been a party to a lawsuit such</p>	<p>1 Do you understand?</p> <p>2 A Yes.</p> <p>3 MR. HARVEY: Can I clarify one other thing?</p> <p>4 It looks like Joe Pavlik is also on with us. Either</p> <p>5 way, is it just him or are there other people?</p> <p>6 MR. BENNION: My understanding, Patrick, is</p> <p>7 it's just Joe Pavlik.</p> <p>8 MR. HARVEY: Okay. Thank you.</p> <p>9 MR. BENNION: And he's a party to this case.</p> <p>10 He's allowed to participate or to listen in.</p> <p>11 MR. HARVEY: Yep. I was just making it clear.</p> <p>12 BY MR. BENNION:</p> <p>13 Q Following the deposition, Mr. Deppoleto, the</p> <p>14 transcript of this deposition will be provided to you</p> <p>15 to review for accuracy for what you said today. At</p> <p>16 that time you will have the opportunity to review your</p> <p>17 answers, to sign it was a true and accurate statement</p> <p>18 or to make changes to your deposition testimony at the</p> <p>19 time that you sign it, but if you make changes, myself</p> <p>20 or another attorney will have the opportunity to</p> <p>21 comment upon and to argue that the changes that you</p> <p>22 make from the date of your testimony, which is today,</p> <p>23 until the time that you sign the deposition transcript</p> <p>24 with changes, to make comments upon those changes to</p> <p>25 seek to impeach your credibility.</p>
<p>Page 5</p>	<p>Page 7</p>

<p>1 as the Plaintiff or Defendant prior to this lawsuit?</p> <p>2 A Yes.</p> <p>3 Q And let me go through the admonitions of a</p> <p>4 deposition and then we will proceed to ask further</p> <p>5 questions.</p> <p>6 The oath which you just took is the same as</p> <p>7 any you would take in a court of law. With that oath</p> <p>8 you have the obligation and responsibility to tell the</p> <p>9 truth and we expect that you will do so.</p> <p>10 Do you understand that?</p> <p>11 A Yes.</p> <p>12 Q Are you currently under any medication that</p> <p>13 might inhibit or impair your ability to testify</p> <p>14 truthfully?</p> <p>15 A No.</p> <p>16 Q If you answer a question would it be fair for</p> <p>17 us to assume that you understood the question?</p> <p>18 MR. HARVEY: Objection. Incomplete</p> <p>19 hypothetical.</p> <p>20 Go ahead.</p> <p>21 THE WITNESS: I'm not sure how to answer that.</p> <p>22 BY MR. BENNION:</p> <p>23 Q I'm going to ask you questions today in the</p> <p>24 deposition. If you don't understand the question,</p> <p>25 please tell me you don't understand.</p>	<p>1 Do you understand that?</p> <p>2 MR. HARVEY: Objection. I don't think that</p> <p>3 accurately states the rule.</p> <p>4 Go ahead.</p> <p>5 THE WITNESS: Yes, I believe so.</p> <p>6 BY MR. BENNION:</p> <p>7 Q What did you do to prepare for your deposition</p> <p>8 today?</p> <p>9 A My attorney gave me a letter to read. That</p> <p>10 was it.</p> <p>11 Q Did you review any documents in preparation</p> <p>12 for your deposition?</p> <p>13 A No documents were provided.</p> <p>14 Q Did you meet with your attorney to prepare for</p> <p>15 your deposition?</p> <p>16 A I was here 30 minutes early.</p> <p>17 Q And how long did you meet with your attorney?</p> <p>18 A 30 minutes.</p> <p>19 Q Did you have a telephone conference -- and I'm</p> <p>20 not asking you about the substance or anything that was</p> <p>21 said in the telephone conference with your attorney,</p> <p>22 but did you have a telephone conference with your</p> <p>23 attorney to prepare for today's deposition?</p> <p>24 A No.</p> <p>25 Q You said that you reviewed a letter. What was</p>
<p>Page 6</p>	<p>Page 8</p>



James V. Deppoleto, Jr. - 12/5/2024
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<p>1 the nature of the letter that you reviewed to prepare 2 for your deposition?</p> <p>3 MR. HARVEY: I'm going to object and instruct 4 you not to answer. Attorney-client privilege.</p> <p>5 BY MR. BENNION:</p> <p>6 Q When did you receive that letter?</p> <p>7 A Yesterday.</p> <p>8 Q What's the extent of your formal education?</p> <p>9 A Bachelor's degree in business administration.</p> <p>10 Q From which school?</p> <p>11 A Cardinal Stritch University.</p> <p>12 Q And where is that located?</p> <p>13 A In Milwaukee, Wisconsin.</p> <p>14 Q And when did you receive that degree?</p> <p>15 A I can't recall the exact date.</p> <p>16 Q In the last 10 years?</p> <p>17 A No.</p> <p>18 Q So prior to that time?</p> <p>19 A Correct.</p> <p>20 Q Okay. When did you graduate from high school?</p> <p>21 A 1989.</p> <p>22 Q And was that in Milwaukee?</p> <p>23 A Oak Creek, Wisconsin.</p> <p>24 Q A suburb of Milwaukee?</p> <p>25 A Correct.</p>	<p>1 A We do not receive material property. We are a 2 material handling company.</p> <p>3 Q So perhaps you can explain what that means to 4 handle material.</p> <p>5 A An example could be an Amazon warehouse. 6 Conveyors that go throughout that, that's material 7 handling equipment, fork trucks, racking, material 8 handling equipment that goes through all the warehouse, 9 we would do things of that nature.</p> <p>10 Q So material handling equipment, does your 11 business provide that?</p> <p>12 A Correct.</p> <p>13 Q Such as -- what type of equipment would that 14 be?</p> <p>15 A Predominantly conveyor equipment.</p> <p>16 Q So conveyor equipment, meaning a conveyor 17 belt, for lack of a better term?</p> <p>18 A I'm sorry. I don't understand that question.</p> <p>19 Q Perhaps you can explain the nature of the 20 conveyor equipment. What is that? Is that a conveyor 21 belt? Please describe it for us.</p> <p>22 A Conveyor belts, yes.</p> <p>23 Q And what else do you provide? What other 24 conveyor equipment do you provide?</p> <p>25 A Could be vision systems. Could be belting.</p>
<p>Page 9</p> <p>1 Q How are you employed?</p> <p>2 A I'm self-employed.</p> <p>3 Q And what does that mean?</p> <p>4 A I have my own company.</p> <p>5 Q And what is the name of that company?</p> <p>6 A Quintec Integration, Inc.</p> <p>7 Q And what is the nature of Quintec Integration, 8 Inc.'s business?</p> <p>9 A Material handling.</p> <p>10 Q Material handling of what?</p> <p>11 A Material.</p> <p>12 Q Such as?</p> <p>13 A It could be a box. It could be a foundry 14 part. It could be a generator. Material.</p> <p>15 Q And how does your company handle that 16 material? How does it process it?</p> <p>17 A How do you mean?</p> <p>18 Q Well, you just receive the material property 19 and take it in to your company?</p> <p>20 A No.</p> <p>21 Q What do you do with that property?</p> <p>22 A What do you mean?</p> <p>23 Q Well, perhaps you can explain the nature of 24 the business that you're in when you receive material 25 property. What is the nature of your business?</p>	<p>Page 10</p> <p>1 Could be the actual conveyor. It varies. Material 2 handling equipment is what we handle.</p> <p>3 Q And what is the name of your company?</p> <p>4 A Quintec.</p> <p>5 Q I'm sorry. You testified to that previously. 6 Quintec Integration, Inc.; correct?</p> <p>7 A Correct.</p> <p>8 Q And what is your position at Quintec 9 Integration?</p> <p>10 A President.</p> <p>11 Q And how long have you been president of 12 Quintec Integration?</p> <p>13 A 25 years.</p> <p>14 Q When was Quintec Integration founded as a 15 company?</p> <p>16 A 1999.</p> <p>17 Q And you founded the company?</p> <p>18 A Correct.</p> <p>19 Q Are you a member of the Board of Directors at 20 Quintec Integration?</p> <p>21 A Correct.</p> <p>22 Q Who else is on the Board of Directors at 23 Quintec Integration?</p> <p>24 A No one.</p> <p>25 Q Are you on the Board of Directors of any other 26 Page 12</p>

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<p>1 companies?</p> <p>2 A No.</p> <p>3 Q Do you know Amy Allen?</p> <p>4 A Former employee.</p> <p>5 Q And when did she stop working for you at</p> <p>6 Quintec Integration?</p> <p>7 A I'm not sure.</p> <p>8 Q Do you recall how long she worked for you at</p> <p>9 Quintec Integration?</p> <p>10 A Also not sure.</p> <p>11 Q You don't recall her position with Quintec</p> <p>12 Integration?</p> <p>13 A I did not say that.</p> <p>14 Q What was her position with Quintec</p> <p>15 Integration?</p> <p>16 A Accounting.</p> <p>17 Q Accounting, such as?</p> <p>18 A Every day daily accounting work.</p> <p>19 Q And just to inform us as to what daily</p> <p>20 accounting work is at Quintec Integration, what is</p> <p>21 that?</p> <p>22 A Accounts receivable, accounts payable.</p> <p>23 Q I see.</p> <p>24 A Regular accounting work.</p> <p>25 Q Thank you. Have you ever been charged with or</p>	<p>1 Q And did you file this lawsuit as a Plaintiff?</p> <p>2 A Yes.</p> <p>3 Q Okay. So let's go to Exhibit 2 now. This</p> <p>4 document has been marked as Exhibit 2.</p> <p>5 MR. BENNION: If you could scroll down to the</p> <p>6 next page, Daniel.</p> <p>7 BY MR. BENNION:</p> <p>8 Q Have you seen this document before,</p> <p>9 Mr. Deppoletto?</p> <p>10 A I have not.</p> <p>11 Q This is Plaintiff's First Amended Verified</p> <p>12 Complaint.</p> <p>13 MR. BENNION: And if you can scroll up,</p> <p>14 Daniel, just for a moment, up higher in the page.</p> <p>15 BY MR. BENNION:</p> <p>16 Q That was filed August 30, 2023.</p> <p>17 Do you see that, Mr. Deppoletto?</p> <p>18 A I see that filed, yes.</p> <p>19 Q And you've never seen this document before,</p> <p>20 Plaintiff's First Amended Verified Complaint, which</p> <p>21 lists you as the Plaintiff?</p> <p>22 A I don't recall it.</p> <p>23 Q Okay.</p> <p>24 MR. BENNION: Let's go to the last page of the</p> <p>25 document, Daniel. So pull that up.</p>
<p>1 convicted of a felony?</p> <p>2 A No.</p> <p>3 Q I'd like to pull up Exhibit 1 to the Notice of</p> <p>4 Deposition. It's been marked as Exhibit 1.</p> <p>5 MR. HARVEY: Hold on one second, Counsel. I'm</p> <p>6 trying to make sure we can see it. Counsel or whoever</p> <p>7 is controlling it, can you zoom in a little bit? We</p> <p>8 can see it, but not well at all.</p> <p>9 EXHIBIT TECH: I'll wait for your instruction</p> <p>10 to do the scrolling when you need me to.</p> <p>11 MR. HARVEY: What is the question?</p> <p>12 MR. BENNION: If you can scroll down, Daniel,</p> <p>13 on Exhibit 1, Notice of Taking Zoom Deposition of James</p> <p>14 V. Deppoletto Jr. It has today's date listed.</p> <p>15 BY MR. BENNION:</p> <p>16 Q Have you seen this document before today,</p> <p>17 Mr. Deppoletto?</p> <p>18 A I have not.</p> <p>19 MR. BENNION: I'd like to scroll down further</p> <p>20 or farther, Daniel. Thank you.</p> <p>21 BY MR. BENNION:</p> <p>22 Q Is it your understanding, Mr. Deppoletto, that</p> <p>23 today is the day, December 5, 2024, that your</p> <p>24 deposition is to be taken in the case referenced above?</p> <p>25 A That is my understanding.</p>	<p>1 BY MR. BENNION:</p> <p>2 Q This is page 28 of 28 of the First Amended</p> <p>3 Verified Complaint.</p> <p>4 Do you see that verification page,</p> <p>5 Mr. Deppoletto?</p> <p>6 A I do.</p> <p>7 Q And is that your signature at the bottom via</p> <p>8 DocuSign?</p> <p>9 A It appears so.</p> <p>10 Q And you authorized the verification DocuSign</p> <p>11 for your name verifying that you certify: I verify</p> <p>12 believe the same to be true as set forth in the First</p> <p>13 Amended Verified Complaint?</p> <p>14 A What was the question?</p> <p>15 Q This is the verification page, page 28 of</p> <p>16 Exhibit 2, which is the First Amended Verified</p> <p>17 Complaint; correct?</p> <p>18 A It appears so, sure.</p> <p>19 Q So take a moment to read the verification</p> <p>20 paragraph above your signature.</p> <p>21 A And?</p> <p>22 Q You've read that?</p> <p>23 A Correct.</p> <p>24 Q And that's your authorized signature below</p> <p>25 dated August 30, 2023?</p>

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<p>1 A It appears so.</p> <p>2 Q You don't recall signing this or authorizing</p> <p>3 it to be signed?</p> <p>4 A It's August 30, 2023. I do not specifically</p> <p>5 recall that, no.</p> <p>6 Q Did you authorize your attorneys to file the</p> <p>7 lawsuit, which is set forth here in the First Amended</p> <p>8 Verified Complaint?</p> <p>9 A Yes.</p> <p>10 Q Okay. Let's move on.</p> <p>11 When did you first meet the Defendants you've</p> <p>12 sued in this case, the individual Defendants: Toby</p> <p>13 McBride, Joe Pavlik, Mike Holley and Tom Zarro? I</p> <p>14 realize that's compound, but to try and streamline the</p> <p>15 questioning, are you familiar with Toby McBride, Joe</p> <p>16 Pavlik, Mike Holley and Tom Zarro?</p> <p>17 A Yes.</p> <p>18 Q And who was the first of those four whom you</p> <p>19 met?</p> <p>20 A I don't recall who was the first. I believe</p> <p>21 it was all at the same time.</p> <p>22 Q And where and when did you meet them?</p> <p>23 A I believe it was at a PFL event, I believe.</p> <p>24 Q PFL, meaning Professional Fighters League</p> <p>25 event?</p>	<p>1 Q And you just ran into him?</p> <p>2 A Incorrect.</p> <p>3 Q Please explain how you met him.</p> <p>4 A I met him at a PFL event.</p> <p>5 Q I understand that. I'm asking for the</p> <p>6 specifics. Was it at a dinner? Was it at the event?</p> <p>7 Where was it at the event?</p> <p>8 A It was at the event. At the hotel of the</p> <p>9 event or wherever they were hosting the hotel stay.</p> <p>10 Q And who's hosting the hotel stay?</p> <p>11 A Don't know. PFL, I imagine. Don't know.</p> <p>12 Q So you don't know if Toby McBride or Joe</p> <p>13 Pavlik or Jason Tucker were hosting that event?</p> <p>14 A It was my understanding that they hosted it,</p> <p>15 but I don't know for sure.</p> <p>16 Q And when you say they, is that them</p> <p>17 individually or as part of a company?</p> <p>18 A They as whatever company they were with, yes.</p> <p>19 Q Those three individuals, Toby McBride, Joe</p> <p>20 Pavlik and Jason Taylor, were members of one company;</p> <p>21 is that your testimony?</p> <p>22 A Jason Tucker. Yes, I believe so. I don't</p> <p>23 know for a fact, but I believe so.</p> <p>24 Q What was Jason Tucker's position with Takeover</p> <p>25 Industries when you met him?</p>
<p>Page 17</p> <p>1 A Correct.</p> <p>2 Q What is the Professional Fighters League?</p> <p>3 A A professional fighters league.</p> <p>4 Q Okay.</p> <p>5 A What is your question?</p> <p>6 Q Your understanding of the Professional</p> <p>7 Fighters League?</p> <p>8 A Professional fighters league. That's my</p> <p>9 understanding.</p> <p>10 Q Sure. So you indicated that you met these</p> <p>11 four gentleman at a Professional Fighters League event?</p> <p>12 A Three of them, I believe.</p> <p>13 Q And which three?</p> <p>14 A I believe it was Toby McBride, Joe Pavlik and</p> <p>15 Jason Tucker.</p> <p>16 Q So it wasn't Mike Holley or Tom Zarro at that</p> <p>17 time?</p> <p>18 A Not at that time.</p> <p>19 Q And how did you come to meet them?</p> <p>20 A I don't understand the question.</p> <p>21 Q Did somebody introduce you to them?</p> <p>22 A I don't understand the question.</p> <p>23 Q Let's take Toby McBride. How did you come to</p> <p>24 meet Toby McBride?</p> <p>25 A At a PFL event.</p>	<p>Page 19</p> <p>1 A I don't recall.</p> <p>2 Q Do you recall what Joe Pavlik's position with</p> <p>3 Takeover Industries was when you met him?</p> <p>4 A I don't recall.</p> <p>5 Q Would your answer be the same for Toby</p> <p>6 McBride?</p> <p>7 A Correct. I believe all three to be principals</p> <p>8 of this company.</p> <p>9 Q Principals in what form?</p> <p>10 A At one point I believe we all held a president</p> <p>11 title or a CEO title -- or I don't know. I don't know</p> <p>12 specifically what their titles were.</p> <p>13 Q Who did you attend the Professional Fighters</p> <p>14 League event with in Dallas when you met these</p> <p>15 individuals?</p> <p>16 A My father, I believe.</p> <p>17 Q And what's your father's name?</p> <p>18 A James Depoletto Sr.</p> <p>19 Q Makes sense. Do you know Anthony Pettis?</p> <p>20 A He's my cousin.</p> <p>21 Q And was Anthony Pettis the one, your cousin,</p> <p>22 that introduced you to Toby McBride, Joe Pavlik and</p> <p>23 Jason Tucker?</p> <p>24 A He introduced me to the opportunity.</p> <p>25 Q What does that mean?</p>

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<p>1 A The business opportunity that we're talking 2 about. He introduced me to that. We initially came in 3 as investors, I guess, on the front end. 4 Q Did you say he initially came in as an 5 investor on the front end? 6 A I did not say that. 7 Q Well, then can you please restate what you 8 said with respect to investor on the front end? 9 A I said I believe we were involved with that as 10 investors on the front end. Whatever date that was, 11 November, December, whenever we invested initially, 12 that was the start of it. 13 Q Do you recall when the event was at 14 Professional Fighters League in Dallas? 15 A I do not. 16 Q Could that have been April of 2022? 17 A I don't know. 18 Q Do you recall who fought there when you met 19 these gentleman? 20 A My cousin was really the only fight I was 21 interested in. 22 Q Would that be Anthony Pettis? 23 A Correct. 24 Q You indicated just a moment ago that -- did 25 this meeting lead to your investment as you describe on</p>	<p>1 Q And when you say we, who is we? 2 A Anthony Pettis, Josh Rapkin and myself. 3 Q Do Anthony Pettis and Josh Rapkin work with 4 you at your company? 5 A They do not. 6 Q Is Mr. Pettis still a fighter in the 7 Professional Fighters League? 8 A I don't believe so. 9 Q Have you spoke with either Mr. Rapkin or 10 Mr. Pettis regarding this lawsuit? 11 A I have not. 12 Q When was the last time you spoke with either 13 one of them? 14 A I had dinner with my cousin two weeks ago. 15 Q Does Mr. Pettis live in the Milwaukee area as 16 well? 17 A He does not. 18 Q Where does he live? 19 A Las Vegas. 20 Q Good deal. So your testimony is you did 21 nothing other than review documents that were provided 22 to you by Takeover Industries before investing the 23 initial \$500,000 in Takeover; is that correct? 24 A No. My testimony was that we reviewed the 25 documents that they sent.</p>
<p>Page 21</p> <p>1 the front end with Takeover Industries? 2 A I don't recall. 3 Q What investment was made on the front end, as 4 you describe? 5 A I believe I invested 500,000 and Anthony 6 invested 250,000 and another friend of ours invested 7 another 250,000. 8 Q Do you recall who the other friend of yours 9 was? 10 A Josh Rapkin. 11 Q How do you spell Rapkin? 12 A R-A-P-K-I-N. 13 Q Thank you. And how do you know Mr. Rapkin? 14 A It's my cousin's friend. 15 Q Anthony Pettis's friend? 16 A Correct. 17 Q What did you do to investigate Takeover 18 Industries prior to investing with Takeover? 19 A What did I do? I don't understand your 20 question. 21 Q Did you investigate the company at all other 22 than meeting with Mr. McBride, Mr. Pavlik and 23 Mr. Tucker, prior to investing \$500,000 in Takeover? 24 A We reviewed the documentation I think that 25 they sent us.</p>	<p>Page 23</p> <p>1 Q When you say they, who do you mean? 2 A Whoever was in charge there. So I don't 3 remember if it was Tucker, McBride, Pavlik, not sure. 4 Q Did you ever meet with Jason Tucker in Puerto 5 Vallarta, Mexico in or about the spring of 2022? 6 A I'm not sure of the date. 7 Q Did you meet with Jason Tucker in Puerto 8 Vallarta, Mexico at any time? 9 A I met with Jason in Mexico, yes. 10 Q Was that before or after you invested in 11 Takeover Industries? 12 A Before, I believe. 13 Q Do you recall when you first invested in 14 Takeover Industries? 15 A I do not. No. No. 16 Q You met with Mr. Tucker at the event, 17 Professional Fighters League event, in April 2022 and 18 then you met with him subsequently before you invested 19 in Takeover Industries; correct? 20 A I cannot recall the timing of those meetings. 21 Q But you met with him twice; would that be fair 22 to say? 23 A Well, I met with all three of them once and 24 then Tucker, yes, I met there to look him in the eye, 25 look him in the face over this deal.</p>



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<p>1 Q What was Mr. Tucker's position with Takeover 2 Industries at the time of your second meeting, which 3 would have been in Puerto Vallarta, Mexico? 4 A I'm not sure. 5 Q Did he represent himself to you as holding a 6 certain position with Takeover Industries at that 7 second meeting in Mexico? 8 A He did not represent themself any way. 9 Q What did he say to you at that meeting? 10 A I don't really recall. I think we talked 11 vaguely about some business stuff and potential of the 12 business. That's about it. Kind of a fact-finding, I 13 guess, if you will. 14 Q And what did Mr. Tucker tell you in response 15 to your fact-finding investigation of the nature of 16 Takeover's business? 17 A It was a very fluffy conversation similar to 18 the ones that they all have. They all have very fluffy 19 flowery words, not a lot of substance, so it was tough 20 to get a good conversation in. 21 Q And you're talking about Toby McBride, Joe 22 Pavlik and Jason Tucker; is that correct? 23 A Yes. They consistently pitched the dream. 24 Q And what was your understanding on the nature 25 of Takeover Industries' business when you first</p>	<p>1 A I don't recall. I don't believe so, but I 2 don't recall. 3 Q What led you to invest \$500,000 with Takeover 4 Industries initially in the spring of 2022? 5 A I'm sorry. Repeat that. 6 Q What led you to invest \$500,000 in Takeover 7 Industries in the spring of 2022? 8 A I don't believe that was the date. I'm not 9 sure on that date. 10 Q What's your recollection? 11 MR. HARVEY: Counsel, I don't want to be 12 convoluting things here. It's obviously your 13 deposition, I'm just trying to speed things along. I 14 think the term investment, are you distinguishing 15 between investment meaning when he bought shares or 16 investment when he loaned money? I think you guys are 17 talking past each other a little bit. Again, your 18 deposition. You ask questions that you want, I'm just 19 trying to speed it along. 20 MR. BENNION: I'll tell you what I'll do, 21 Patrick, I'll pull up the Convertible Note Purchase 22 Agreement. So let's go to Exhibit 3. 23 THE WITNESS: So you understand you're talking 24 about two different things; right? 25 BY MR. BENNION:</p>
<p>1 invested the \$500,000 in Takeover? 2 A I believe it was up-and-coming hydrogen water 3 and other drink type products. 4 Q Such as gamer shots? 5 A I don't know if that was -- I don't know when 6 that came about. 7 Q Are you familiar with the term gamer shot? 8 A I don't know what the term they use for their 9 shot, but they had some shot that was geared towards 10 gaming. 11 Q And what was your understanding of Joe 12 Pavlik's role with the company with respect to the 13 energy drink and/or gamer shot? 14 A Again, they all kind of -- at one point they 15 represented themselves as president. I wasn't clear on 16 any of their titles, to be honest. 17 Q So you weren't aware Joe Pavlik was the chief 18 science officer at Takeover Industries when you -- 19 A I don't recall that title. 20 Q Did Joe Pavlik speak to you about the content 21 of the energy drink and/or gamer shot? 22 A I do not recall. 23 Q Did anyone, either Jason Tucker or Toby 24 McBride, ask you about -- or tell you, explain for you, 25 the contents, recipe of these products?</p>	<p>1 Q What we do here, Mr. Deppoleto, is I ask you 2 questions. That's what a deposition is. Just so you 3 know the process. Do you need to know more explanation 4 about the nature of a deposition before we proceed? 5 A No. I'm good. 6 Q Okay. I ask the questions. Your counsel can 7 object. And then you answer. Understood? 8 A Yep. 9 Q Okay. Thank you. 10 Let's go to -- this is Exhibit No. 3, if you 11 go down to the bottom of the page. This is the 12 Convertible Note Purchase Agreement. It's marked as 13 Exhibit 3 to this deposition. Take a moment to review 14 it. It's a lengthy document. I'm not going to ask you 15 to review the entire document. Take a moment to review 16 the top three paragraphs. 17 A Okay. 18 Q Are you familiar with this document? 19 A Yes. 20 Q You've seen it before? 21 A Yes. 22 Q And it's dated May 25, 2022. I'll just speed 23 this up and read it: This Convertible Note Purchase 24 Agreement, this Agreement, dated as of May 25, 2022, 25 effective date is entered into among Takeover</p>

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<p>1 Industries, a Nevada corporation, James V. Deppoletto 2 Jr, an individual purchaser for the limited purposes 3 provided in Sections 4 and 8.5, Labor Smart, Inc., a 4 Nevada corporation and majority shareholder of the 5 company. 6 And then if we skip down to paragraph No. 1, 7 it says: Purchase and Sale: In exchange for \$500,000 8 the consideration paid by purchaser, the company shall 9 sell and issue to purchaser a secured convertible 10 promissory note in the form attached hereto as Exhibit 11 A. The note will have a principal balance in the 12 amount of the consideration. 13 Did I read that correctly? 14 A It appears so. 15 Q Thank you. So let's go to, I believe it's not 16 going to be the last page. It's going to be page 20 17 and 21. 18 Do you see these signature lines here, 19 Mr. Deppoletto? 20 A Yes. 21 Q We'll go to the next page. So Mr. Deppoletto, 22 do you see the signature lines for Jason Tucker, 23 President of Takeover Industries and Michael Costello, 24 Chief Executive Officer of Takeover Industries? 25 MR. HARVEY: Counsel, we're not on that page</p>	<p>1 Note Purchase Agreement, identified in this deposition 2 as Exhibit 3? 3 A It appears so, yes. 4 Q And it's your testimony that you paid \$500,000 5 on or about May 25, 2022, to Takeover Industries as 6 part of this agreement? 7 A Yes. 8 Q Did you speak – let's go back. 9 So after the meeting with Mr. McBride and 10 Mr. Pavlik and Mr. Tucker in April of 2022, at the 11 Dallas -- we'll call it PFL event, meaning Professional 12 Fighters League; correct? 13 A I'm not sure of the question. 14 Q Would you agree with the acronym PFL for 15 Professional Fighters League? 16 A Yes. 17 Q Okay. Did you speak with Toby McBride or Joe 18 Pavlik after that event prior to signing the 19 Convertible Note Purchase Agreement May 25, 2022? 20 A I don't recall. 21 Q When did you first meet Michael Costello? 22 A I don't recall that either. 23 Q When was the last time you spoke with Michael 24 Costello? 25 A I don't recall that either.</p>
<p>1 on our screen. 2 MR. BENNION: I apologize. There we have it. 3 BY MR. BENNION: 4 Q Do you see those signatures, Mr. Deppoletto? 5 A I see them. 6 Q And were these the two individuals that you 7 negotiated with when you entered into the convertible 8 note purchase agreement May 25, 2022? 9 MR. HARVEY: Objection. Vague. Also 10 compound. 11 Go ahead. 12 THE WITNESS: I believe Tucker was the 13 representation, I believe. 14 BY MR. BENNION: 15 Q Did you speak with Michael Costello about your 16 signing of the Convertible Note Purchase Agreement, 17 which is identified as Exhibit 3, prior to your signing 18 of the document? 19 A I did not. 20 Q Have you ever met Michael Costello? 21 A I have. 22 Q When did you meet him? 23 A I cannot recall. 24 Q Let's go to the next page. And is that your 25 authorized signature as a purchaser on this Convertible</p>	<p>1 Q What is your understanding of Mr. Costello's 2 role with Takeover Industries? 3 MR. HARVEY: I'll just object as vague as to 4 time. 5 Go ahead. 6 THE WITNESS: I believe he was sales capacity, 7 also CEO. I'm not sure, but more on the sales 8 capacity. 9 BY MR. BENNION: 10 Q In sales capacity, we'll take May 25, 2022 as 11 the time period, what was your understanding of 12 Mr. Costello's role as a salesperson for Takeover 13 Industries? 14 A I don't have any understanding of that role 15 other than that he was in sales. 16 Q Did he do sales for the gamer shot or for the 17 energy drink? 18 A I don't know that for sure. 19 Q Okay. Let's move on for a second. We'll come 20 back to Exhibit 3 momentarily. 21 Let's go to Exhibit 4. This is the Secured 22 Convertible Promissory Note dated May 25, 2022. It 23 says \$500,000. Take a moment to read the first 24 paragraph. I won't read it to you. 25 A Okay.</p>

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<p>1 Q Are you familiar with this document? Have you 2 seen it before?</p> <p>3 A I believe so, yes.</p> <p>4 Q Let's go to the last page. Are you familiar 5 with that signature that is above the line that says: 6 Print Name: Jason Tucker?</p> <p>7 A I wouldn't say I'm familiar with the 8 signature, but it looks like Jason Tucker's signature, 9 yes.</p> <p>10 QOkay. Let's go down further, please, or 11 farther.</p> <p>12 EXHIBIT TECH: This is the last page, Counsel, 13 so I'm sorry. Did you need to go back? It's a 14 three-page document.</p> <p>15 MR. BENNION: Let me double-check.</p> <p>16 BY MR. BENNION:</p> <p>17 QOkay. Mr. Depoletto, you've seen this 18 document before?</p> <p>19 AI believe so.</p> <p>20 QLet's go to Exhibit 4 -- or that's Exhibit 4. 21 Let's go to Exhibit 5.</p> <p>22 Exhibit 5 is the First Amendment to 23 Convertible Note Purchase Agreement and it's made and 24 entered into as of July 6, 2022.</p> <p>25 Doyou see that at the bottom of the first</p>	Page 33	<p>1 QHow was it that you came to invest or to pay 2 another \$500,000 to Takeover Industries for operating 3 expenses?</p> <p>4 AI'm sorry. What is the question?</p> <p>5 QHere you are paying another \$5,000 to Takeover 6 Industries, is that correct, as of --</p> <p>7 ANot correct. \$500,000.</p> <p>8 QFor operating expenses; is that correct?</p> <p>9 AIt says that on the agreement, yes. And that 10 was our second note for \$500,000. This was a grouping 11 for 2 million. This was the second note that came 12 through.</p> <p>13 QWhen you say grouping of 2 million, what do 14 you mean?</p> <p>15 AThe investment was for 2 million. It came in 16 four different tranches of 500,000 apiece.</p> <p>17 MR. BENNION: Can you all see me? I just lost 18 you off the screen.</p> <p>19 THE WITNESS: We see you.</p> <p>20 MR. HARVEY: I see you.</p> <p>21 MR. BENNION: I can't see any of you. (Discussion held off the record.)</p> <p>22 BY MR. BENNION:</p> <p>23 QOkay. Let's go down to pages 4 and 5 of 24 Exhibit 5.</p>	Page 35
<p>1 paragraph, Mr. Depoletto?</p> <p>2 A Yes.</p> <p>3 Q Do you recall entering into a First Amendment 4 to Convertible Note Purchase Agreement that's reflected 5 in Exhibit 5?</p> <p>6 A I don't specifically recall.</p> <p>7 Q Do you recall -- if you look at the second 8 paragraph under Recitals: Whereas, the purchaser 9 desires to provide additional capital to the company 10 for operating expenses in the amount of \$500,000, the 11 additional note consideration.</p> <p>12 Does that sound familiar?</p> <p>13 A Actually, the sentence below that, the second 14 note, that makes it more familiar.</p> <p>15 Q The Whereas paragraph below that?</p> <p>16 A Correct. If this is the second note, then 17 yes. I remember giving them a second note for 18 \$500,000, yes.</p> <p>19 Q On or about July 6, 2022; is that correct?</p> <p>20 A I don't recall the date.</p> <p>21 Q Let's go back to the top of the document. The 22 date of the document, July 6, 2022, do you see that?</p> <p>23 A Yes.</p> <p>24 Q Does that refresh your recollection?</p> <p>25 A It does not.</p>	Page 34	<p>1 Doyou see that page 4, Mr. Depoletto?</p> <p>2 A Yes.</p> <p>3 QOkay. Once again, it's signed Takeover 4 Industries, Jason Tucker, President.</p> <p>5 Doyou see that?</p> <p>6 A I do.</p> <p>7 QAnd then Labor Smart, Inc, Michael Costello, 8 Chief Executive Officer.</p> <p>9 Doyou see that as well?</p> <p>10 A I do.</p> <p>11 QWhat is Labor Smart, Inc?</p> <p>12 MR. HARVEY: Objection. Foundation. 13 Go ahead.</p> <p>14 THE WITNESS: I'm not sure how to answer that. 15 And I don't know how that would be categorized.</p> <p>16 BY MR. BENNION:</p> <p>17 QAre you familiar with Labor Smart, Inc., that 18 company?</p> <p>19 A Yes.</p> <p>20 QHow so?</p> <p>21 A Just that it was part of this deal here. It 22 was commingled with Takeover, I believe.</p> <p>23 QWas their vehicle for stock trading, perhaps?</p> <p>24 A (No audible answer.)</p> <p>25 QAnd once again, it's your understanding that</p>	Page 36

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<p>1 Michael Costello's role at Labor Smart was as a 2 salesman?</p> <p>3 MR. HARVEY: Objection. Misstates previous 4 testimony.</p> <p>5 THE WITNESS: I'm not sure what his title was.</p> <p>6 BY MR. BENNION:</p> <p>7 Q It says here chief executive officer; correct?</p> <p>8 A It does.</p> <p>9 Q Okay. Let's go to the next page.</p> <p>10 Is that your authorized signature, the 11 Docusign document by James V. Deppoleto Jr.?</p> <p>12 A It appears so, yes.</p> <p>13 Q Do you recall signing this document or 14 authorizing the Docusigning of this document?</p> <p>15 A I remember authorizing a second note, yes.</p> <p>16 Q Is that your email address below the signature 17 line at the bottom?</p> <p>18 A Yes.</p> <p>19 Q Is that your current email address?</p> <p>20 A Yes.</p> <p>21 Q So while we're here, quintecconveyor.com, do 22 you operate solely in the State of Wisconsin?</p> <p>23 A How do you mean?</p> <p>24 Q In your business. You're president of -- 25 what's the name of the company? I can go back to it</p>	<p>1 investment. Same thing with the deposition, I assumed 2 you were referring to the deposition here. But I've 3 been deposed before. I'm not sure if I've answered 4 that, that I've been deposed before in a different 5 case, but years ago.</p> <p>6 BY MR. BENNION:</p> <p>7 Q I'll ask you some more about that. Thank you.</p> <p>8 A Okay.</p> <p>9 Q Mr. Deppoleto, you just stated that you were 10 deposed previously, meaning before this case in another 11 case; is that correct?</p> <p>12 A Correct.</p> <p>13 Q And what was the nature of that lawsuit?</p> <p>14 A 27 years ago, I believe, it was a non-compete 15 of some sort.</p> <p>16 Q Involving which company that you worked for?</p> <p>17 A Babush Corporation.</p> <p>18 Q And what was your role at Babush Corporation?</p> <p>19 A Sales.</p> <p>20 Q And what was the nature of the business that 21 Babush Corporation was involved in?</p> <p>22 A Material handling equipment.</p> <p>23 Q How do you spell Babush?</p> <p>24 A B-A-B-U-S-H. They're out of business.</p> <p>25 Q Did you have an ownership interest in that</p>
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<p>1 and find it. You spoke of it earlier.</p> <p>2 A Quintec.</p> <p>3 Q What's the full name?</p> <p>4 A Quintec Integration, Inc.</p> <p>5 Q Now, does Quintec Integration, Inc. -- and for 6 ease and reference we'll just call it Quintec now -- 7 does it operate solely in Wisconsin?</p> <p>8 A What does that mean?</p> <p>9 Q Do you do business only in the State of 10 Wisconsin?</p> <p>11 A No.</p> <p>12 Q What states do you do business in --</p> <p>13 A 45 out of the 50 states.</p> <p>14 Q So for example, you do business in Nevada, 15 perhaps?</p> <p>16 A I'm not sure if we've done any business in 17 Nevada, but perhaps.</p> <p>18 MR. BENNION: Okay. Let's take a five-minute 19 break right now. Is that all right, Counsel?</p> <p>20 MR. HARVEY: Sure.</p> <p>21 (Recess taken.)</p> <p>22 THE WITNESS: Mr. Bennion, we wanted to 23 clarify that you asked about a deposition I think when 24 we were missing each other on targets for -- you were 25 talking about the notes, I was talking about the</p>	<p>1 business?</p> <p>2 A I did not.</p> <p>3 Q And you haven't been deposed other than in 4 this case or in the Babush case?</p> <p>5 A Yeah. I believe that's it.</p> <p>6 Q Let's go to -- well, did you attend an event 7 in June of 2022 in Atlanta, a PFL event?</p> <p>8 A I went to see my cousin fight again, yes.</p> <p>9 Q Mr. Pettis?</p> <p>10 A Yes.</p> <p>11 Q I see. And did you meet with Jason Tucker at 12 that event?</p> <p>13 A I believe he might have been there. I'm not 14 sure who of the group was there. Maybe McBride and 15 maybe Pavlik. I'm not sure.</p> <p>16 Q Tucker was there?</p> <p>17 A Yes.</p> <p>18 Q And you met with Jason Tucker before that 19 event?</p> <p>20 A During that event.</p> <p>21 Q When you say during, what does that mean?</p> <p>22 A Sitting in the seats watching the fight.</p> <p>23 Q So you didn't meet with Jason Tucker prior to 24 the fight?</p> <p>25 A I don't believe so, no.</p>
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1 Q Did you meet with a rapper by the name of
2 T-Pain at that time in Atlanta with Mr. Tucker?
3 A I don't recall.
4 Q Do you know who T-Pain is?
5 A I do, yes.
6 Q What was the nature of his involvement with
7 Takeover Industries?
8 A They were using his image in one of their
9 shots, I think.
10 Q On an energy drink or --
11 A Whatever their little shot -- I believe it was
12 energy, yes.
13 Q So it wasn't a gamer shot, it was an energy
14 drink?
15 A I believe that's what it is. It's an energy
16 drink or an energy shot.
17 Q Was that meeting attended by you and
18 Mr. Tucker with T-Pain, were Toby McBride or Joe Pavlik
19 there?
20 A Again, I don't recall the meeting and I
21 wouldn't recall if Joe or McBride were there.
22 Q So you don't recall meeting with T-Pain in
23 June of 2022 at the PFL event in Atlanta, Georgia?
24 A I don't. I've seen him on multiple occasions.
25 I don't recall for that, though.

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1 Q You don't recall when you met T-Pain?
2 A Correct.
3 Q Do you recall when you first met T-Pain?
4 A I do not.
5 Q Could it have been at the June 2022 PFL event
6 in Atlanta?
7 A It was not at that event.
8 Q T-Pain was not at that event?
9 A I don't believe so.
10 MR. HARVEY: I'm sorry I think you guys -- do
11 you mind asking that question again? I think he didn't
12 hear you. I think he gave an answer that was not
13 answering your question. Sorry.
14 BY MR. BENNION:
15 Q I simply asked: You testified that T-Pain was
16 not at the PFL event in Atlanta in 2022; is that
17 correct?
18 A I believe he was not.
19 Q Did you meet with T-Pain in 2022 with Jason
20 Tucker at T-Pain's offices in Atlanta?
21 A We met with him. I don't remember the date or
22 time, no.
23 Q You don't remember if you met with T-Pain and
24 Jason Tucker at T-Pain's offices in June of 2022 in
25 Atlanta?

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1 A We met at his office. I don't remember when.
2 Q Have you met with T-Pain more than one time at
3 his office in Atlanta?
4 A No.
5 Q What was the purpose of your meeting when you
6 and Jason Tucker met with T-Pain in Atlanta at his
7 office?
8 A I was there observing. It was just a chance
9 to meet T-Pain and they were talking, I think, about
10 the energy shot. I'm not sure.
11 Q Was there a reason why it was important to
12 meet with T-Pain about the energy shot?
13 A I don't know what -- Mr. Tucker's agenda, I
14 just tagged along.
15 Q And Mr. Tucker's position at the time with
16 Takeover Industries was president?
17 A I don't recall. Again, like I said, I saw
18 that moniker around on all of their titles at one
19 point.
20 Q Were you ever a member of the Board of
21 Directors for Takeover Industries?
22 A I was not.
23 Q Did you ever ask to be a member of the
24 Takeover Board of Directors?
25 A I did not and my attorneys did not allow that

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1 as well. That was one of the stipulations we were not
2 going to do right from the start. In fact, they
3 prematurely listed me as a member or listed me as a
4 member and my attorney sent cease and desist letters.
5 I was not supposed to be there.
6 Q Who do you say listed you as member of the
7 Board of Directors?
8 A Whoever from that company listed -- put a post
9 out there that was not accurate.
10 Q What was the nature of the post?
11 A I believe listing -- trying to list me as a
12 Board member of some sort that was just not accurate.
13 Q Are you familiar with the name Mike
14 Tzanetatos?
15 A Mike T maybe?
16 Q That would be better.
17 A I think that's his name Tiz. I don't know his
18 last name, but T-I-Z.
19 Q Let's go to Exhibit 10. Take a minute to
20 review this invoice.
21 A Okay.
22 Q Are you familiar with it?
23 MR. HARVEY: What number was this?
24 MR. BENNION: I believe it's Exhibit 10.
25 MR. HARVEY: Okay. Thank you.

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<p>1 MR. BENNION: Let me know when everybody is 2 there.</p> <p>3 THE WITNESS: I've never seen that invoice.</p> <p>4 BY MR. BENNION:</p> <p>5 Q Let's go back to the body of it. Thank you. 6 Now, it says ATTN in the first rectangle box, 7 Michael Tzanetatos?</p> <p>8 A Mike T is what I'm familiar with, yes.</p> <p>9 Q Is this the Mike T that you're referring to?</p> <p>10 A I don't think that's the right spelling of his 11 name, but I'm going to say probably.</p> <p>12 Q I'm not sure, I believe that's a Greek name. 13 I'd like to refer to him as Mike T for accuracy.</p> <p>14 Who is Mike T?</p> <p>15 A Again, sales capacity, but maybe something 16 with product, the trucking, I'm not sure. I'm not 17 exactly sure of Mike's position.</p> <p>18 Q You see how it says Family Dollar, are you 19 familiar with Takeover Industries' involvement with a 20 deal, contract with Family Dollar?</p> <p>21 MR. HARVEY: Objection. Vague and compound. 22 Go ahead.</p> <p>23 THE WITNESS: I'm not personally aware of 24 that, no.</p> <p>25 BY MR. BENNION:</p>	<p>1 A An investor. I would call on my investment 2 and I guess would get whatever token these guys were 3 throwing out.</p> <p>4 Q You testified earlier that there was four 5 tranches, I believe you used that term, of \$500,000 6 each that you contributed to Takeover; is that correct?</p> <p>7 A I believe there was three and then the last 8 one was payment direct to the vendor.</p> <p>9 Q Which vendor?</p> <p>10 A Great Northern.</p> <p>11 Q What was the purpose of that?</p> <p>12 A They were making scans for their energy 13 drinks, I believe.</p> <p>14 Q So let's go back to Exhibit 10, which is in 15 front of us. Under the description it says: Slotting 16 fees T-Pain energy drink. You testified earlier that 17 you met with T-Pain on at least one occasion prior to 18 the date of this invoice, November 2, 2022; is that 19 correct?</p> <p>20 A I did not testify to that.</p> <p>21 Q It's your testimony that you had not met with 22 T-Pain before November 2, 2022?</p> <p>23 A I don't know the correlation of the date so 24 that's what I'm not sure of.</p> <p>25 Q But you testified that you did meet with</p>
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1 Q Do you have any awareness of Takeover
2 Industries doing business or attempting to do business
3 with Family Dollar?

4 MR. HARVEY: Same objections.

5 Go ahead.

6 THE WITNESS: Attempting to do business? I
7 believe they're attempting to do business, yes.

8 BY MR. BENNION:

9 Q And how so was Takeover Industries attempting
10 to do business with Family Dollar?

11 A I don't know. I'm not involved. I wasn't
12 involved in their day-to-day. I just was aware that
13 this was a potential.

14 Q What was your involvement day to day with
15 Takeover Industries after signing the Convertible Note
16 Purchase Agreement, the First Amendment to the
17 Convertible Note Purchase Agreement and the Second
18 Amendment to the Convertible Note Purchase Agreement,
19 at which time \$500,000 was paid to Takeover?

20 MR. HARVEY: Objection. Compound and vague.
21 Go ahead.

22 THE WITNESS: I had no day-to-day activities.

23 BY MR. BENNION:

24 Q So what was your involvement when you
25 contributed this money to Takeover? Did you simply –

1 T-Pain at his office in Atlanta; correct?

2 A I met with him once, according to what you
3 said, yes. One time, yes.

4 Q And you don't know whether it was before or
5 after –

6 A I don't recall. I don't recall the timing of
7 this. I never saw this invoice.

8 Q If you can just allow me to finish the
9 question before you answer, Mr. Deppoleto, that will be
10 easier.

11 Do you know what a slotting fee is?

12 A I do not.

13 Q It says here: Slotting fees T-Pain energy
14 shot, then down below a slotting allowance, a total of
15 \$3,047,200.

16 Do you see that?

17 A Sure.

18 Q Were you aware in or about November of 2022
19 that Takeover Industries had received this Family
20 Dollar vendor funding invoice?

21 A I'm not aware of their invoices.

22 Q Had you spoken to Mike T with regard to Family
23 Dollar?

24 A I did not.

25 Q Have you spoken to Mike Costello with regard

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<p>1 to Family Dollar?</p> <p>2 A Possibly vague generalities with him.</p> <p>3 Q When did you first meet Mike Holley?</p> <p>4 A I can't hear you.</p> <p>5 Q When did you first meet Mike Holley?</p> <p>6 A I believe in Arizona at a court case.</p> <p>7 Q You don't recall when?</p> <p>8 A I do not.</p> <p>9 Q Did you ever speak to Jason Tucker about Takeover Industries doing a deal with Family Dollar?</p> <p>10 A As far as I know, there was no deal with Family Dollar.</p> <p>11 Q And how do you know that?</p> <p>12 A Same way I don't know about this. I don't know. I don't know of any deal. I don't know of a deal. I wasn't privy to their day-to-day operations.</p> <p>13 Q Did anybody at Takeover Industries ask you to contribute monies to Takeover Industries to do a deal with Family Dollar?</p> <p>14 A They asked for more money, that was not coming. So what it was for, I would assume -- maybe it would be for this, but again, I've never seen this invoice so I don't know.</p> <p>15 Q So they didn't have -- who are they, by the way?</p>	<p>1 A Couple weeks ago.</p> <p>2 Q And what was the nature of your conversation?</p> <p>3 What was it about?</p> <p>4 A Him looking for money.</p> <p>5 Q Jason Tucker looking for money for what?</p> <p>6 A Another business venture that is not happening, at least not for me.</p> <p>7 Q With what company?</p> <p>8 A I don't recall. His company, I think.</p> <p>9 Q And what is his company?</p> <p>10 A I don't know what the name of that is called just yet.</p> <p>11 Q What's the nature of his company's business?</p> <p>12 A I don't know.</p> <p>13 Q But he was looking for you to pay or contribute money to his company; is that correct?</p> <p>14 A Looking for investors, yes.</p> <p>15 Q Mr. Deppoleto, do you recall attending a meeting in Las Vegas with Living Essentials, the parent company of 5-hour Energy with Jason Tucker in October of 2022?</p> <p>16 A I don't recall the date, but I did sit in on a meeting. I believe it was at a time of a NACS Show.</p> <p>17 Q That's NACS; is that correct?</p> <p>18 A That I don't know.</p>
<p>1 A Whoever was -- I don't recall who was in charge at that time.</p> <p>2 Q Jason Tucker?</p> <p>3 A Tucker would have been one of them, I would assume.</p> <p>4 Q Let's go back to Mike T for a minute. When was the last time you spoke to Mike T, meaning the Michael Tzanetatos referenced in Exhibit 7 -- or Exhibit 10?</p> <p>5 A I do not recall.</p> <p>6 Q Do you recall the first time you met him?</p> <p>7 A Mike? I don't really. I cannot recall.</p> <p>8 Q Michael Costello, when did you first meet him?</p> <p>9 A I don't recall when I first met him either.</p> <p>10 Q Did you ever meet Melissa Tucker?</p> <p>11 A Yes.</p> <p>12 Q And when was that?</p> <p>13 A I don't recall when I first met her.</p> <p>14 Q What is your understanding of Melissa Tucker's role at Takeover Industries?</p> <p>15 A I believe in marketing.</p> <p>16 Q And is she Jason Tucker's wife?</p> <p>17 A I believe so.</p> <p>18 Q When was the last time you spoke to Jason Tucker?</p>	<p>1 Q Do you know what NACS stands for?</p> <p>2 A Some kind of, like, gas station, grocery store type event, I think.</p> <p>3 Q And you attended that event with Mr. Tucker in Las Vegas?</p> <p>4 A That's inaccurate. I flew down there on my own to visit my cousin and I decided to go to that show.</p> <p>5 Q Was Mr. Tucker at that show?</p> <p>6 A He was, yes.</p> <p>7 Q And you attended a meeting at the NACS Show in Las Vegas with Living Essentials, the parent company of 5-hour Energy with Jason Tucker; is that correct?</p> <p>8 A I didn't go --</p> <p>9 MR. HARVEY: Asked and answered.</p> <p>10 Go head.</p> <p>11 THE WITNESS: I sat in on a meeting.</p> <p>12 BY MR. BENNION:</p> <p>13 Q And who was there from Living Essentials?</p> <p>14 A One individual.</p> <p>15 Q And what was his or her name?</p> <p>16 A I don't recall. It was whoever was at the booth, I believe, at that time.</p> <p>17 Q And where was this event held, which hotel?</p> <p>18 A I'm not sure of the hotel. It was in Las</p>

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<p>1 Vegas.</p> <p>2 Q What was the purpose of that meeting?</p> <p>3 MR. HARVEY: Objection. Foundation.</p> <p>4 Go ahead.</p> <p>5 THE WITNESS: I just sat in on that meeting.</p> <p>6 BY MR. BENNION:</p> <p>7 Q Were you asked by Mr. Tucker to go to that meeting?</p> <p>8 A I was there, so yeah, he asked me to attend.</p> <p>9 Q You don't recall the nature of what was discussed at that meeting?</p> <p>10 A Again, pie in the sky, talking about their drinks, talking about Takeover drinks, but I don't believe it went anywhere.</p> <p>11 Q Did that meeting have any -- were there any discussions regarding the gamer shot that had been produced and marketed by Takeover Industries?</p> <p>12 A I don't recall.</p> <p>13 Q Do you recall the nature of that meeting with 5-hour Energy/Living Essentials was with respect to marketing a gamer shot?</p> <p>14 A It was a general meeting. It really was not substantive at all.</p> <p>15 Q Have you had any business dealings with Living Essentials, the parent company of 5-hour Energy?</p>	<p>1 Q Did you have any discussions with Mike T or Mike Costello at the NACS Show in Las Vegas in October of 2022?</p> <p>2 A Did I have a conversation with them?</p> <p>3 Q Yes.</p> <p>4 A Yes.</p> <p>5 Q Did they attend the meeting that you and Jason Tucker attended with Living Essentials, the parent company of 5-hour Energy?</p> <p>6 A I believe Costello might have been there. I'm not sure about Mike T.</p> <p>7 Q Do you recall anything Mr. Costello said at that meeting?</p> <p>8 A I don't believe he said anything.</p> <p>9 Q And it's your testimony that you didn't say anything in that meeting either; correct?</p> <p>10 A I was observing.</p> <p>11 Q So Jason Tucker was the spokesperson with the people at Living Essentials and 5-hour Energy?</p> <p>12 MR. HARVEY: Objection. Vague.</p> <p>13 Go ahead.</p> <p>14 THE WITNESS: I don't really know how to answer that, but yes, did he talk.</p> <p>15 BY MR. BENNION:</p> <p>16 Q So Mr. Tucker was the primary speaker at that meeting from the Takeover Industries group, including you and Mr. Costello; correct?</p> <p>17 MR. HARVEY: Hold on. Objection. Misstates previous testimony and the evidence and vague.</p> <p>18 Go ahead.</p> <p>19 THE WITNESS: I'm sorry. Can you ask that again?</p> <p>20 BY MR. BENNION:</p> <p>21 Q Yes. So you indicated that you just observed at that meeting with Living Essentials, 5-hour Energy at the NACS Show in October 2022; correct?</p> <p>22 A Yes.</p> <p>23 Q And you don't recall anything that Mr. Costello said at that meeting; correct?</p> <p>24 A Correct.</p> <p>25 Q And you do recall Mr. Tucker speaking at that meeting; correct?</p> <p>26 A I recall him speaking, yes.</p> <p>27 Q About what?</p> <p>28 A It was a very general conversation. It really was not that fascinating of a conversation.</p> <p>29 Q Do you know if Joe Pavlik planned to attend that conference in Las Vegas in October of 2022?</p> <p>30 MR. HARVEY: Objection. Foundation. Calls for speculation.</p>
<p>1 A I have not.</p> <p>2 Q Do you know if Mr. Tucker has had any business dealings with Living Essentials, the parent company of 5-hour Energy?</p> <p>3 MR. HARVEY: Objection. Foundation.</p> <p>4 Go ahead.</p> <p>5 THE WITNESS: I have no idea.</p> <p>6 BY MR. BENNION:</p> <p>7 Q Did Mike Costello and Mike T, did they attend that meeting or that conference in Las Vegas, the NACS Show?</p> <p>8 MR. HARVEY: Compound.</p> <p>9 Go ahead.</p> <p>10 THE WITNESS: I believe they were at that show.</p> <p>11 BY MR. BENNION:</p> <p>12 Q And do you know why they were there?</p> <p>13 A It's their industry.</p> <p>14 Q Did it have anything to do with promoting gamer shots?</p> <p>15 MR. HARVEY: Objection. Foundation.</p> <p>16 Go ahead.</p> <p>17 THE WITNESS: I couldn't tell you. I'm not them.</p> <p>18 BY MR. BENNION:</p>	<p>1 meeting from the Takeover Industries group, including you and Mr. Costello; correct?</p> <p>2 MR. HARVEY: Hold on. Objection. Misstates previous testimony and the evidence and vague.</p> <p>3 Go ahead.</p> <p>4 THE WITNESS: I'm sorry. Can you ask that again?</p> <p>5 BY MR. BENNION:</p> <p>6 Q Yes. So you indicated that you just observed at that meeting with Living Essentials, 5-hour Energy at the NACS Show in October 2022; correct?</p> <p>7 A Yes.</p> <p>8 Q And you don't recall anything that Mr. Costello said at that meeting; correct?</p> <p>9 A Correct.</p> <p>10 Q And you do recall Mr. Tucker speaking at that meeting; correct?</p> <p>11 A I recall him speaking, yes.</p> <p>12 Q About what?</p> <p>13 A It was a very general conversation. It really was not that fascinating of a conversation.</p> <p>14 Q Do you know if Joe Pavlik planned to attend that conference in Las Vegas in October of 2022?</p> <p>15 MR. HARVEY: Objection. Foundation. Calls for speculation.</p>

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<p>1 Go ahead.</p> <p>2 THE WITNESS: I do not know.</p> <p>3 BY MR. BENNION:</p> <p>4 Q Was there an award presented at that conference in Las Vegas that you and Jason Tucker and Mike T and Mike Costello attended known as the Product of the Year?</p> <p>5 A I did not attend anything. I took a picture with them with their plaque.</p> <p>6 Q What type of plaque was it?</p> <p>7 A A cheap little plastic plaque, I believe.</p> <p>8 Q Was it for a Product of the Year plaque for a NXT LVL gamer shot?</p> <p>9 A I believe it was for a product that they were trying -- I believe it was that, but I'm not sure.</p> <p>10 Q Did that photo appear on Twitter, as far as you know?</p> <p>11 A I believe so, but again, not sure.</p> <p>12 Q Do you know why it would be important to post that photo on Twitter?</p> <p>13 MR. HARVEY: Objection. Foundation. Calls for speculation.</p> <p>14 Go ahead.</p> <p>15 THE WITNESS: Not my business. I'm not sure.</p> <p>16 Not a big Twitter man.</p>	<p>1 Q Have you spoken with T-Pain since that time on the phone?</p> <p>2 A I have not.</p> <p>3 Q Have you had any communications with T-Pain, text, email or otherwise, since that meeting?</p> <p>4 A I don't have T-Pain's number.</p> <p>5 Q The question is: Have you texted him, emailed him or communicated in writing with T-Pain otherwise since that meeting?</p> <p>6 A I do not have his contact information.</p> <p>7 Q So your answer is you have not written to him since that time?</p> <p>8 A Correct.</p> <p>9 Q Thank you.</p> <p>10 Have you had any business dealings with 5-hour Energy?</p> <p>11 A No.</p> <p>12 Q Do you know if Jason Tucker has any business dealings with 5-hour Energy?</p> <p>13 A I don't know what Jason does.</p> <p>14 Q Were you invited to attend a meeting of the Board of Directors of Takeover Industries on November 7, 2022?</p> <p>15 A I don't believe so.</p> <p>16 Q Do you know if Jason Tucker was invited to attend a meeting of the Takeover Industries' Board of Directors on November 7, 2022?</p> <p>17 A I would not know that information.</p> <p>18 Q Have you ever attended a meeting of the Takeover Industries' Board of Directors?</p> <p>19 A I do not recall. I don't believe so.</p> <p>20 Q Do you know who the Takeover Industries' Board of Directors were comprised of, which individuals in October of 2022?</p> <p>21 A I do not.</p> <p>22 Q Let's go to Exhibit 6. Pull up Exhibit 6.</p> <p>23 It's the Second Amendment to Convertible Note Purchase Agreement.</p> <p>24 Do you see that, Mr. Deppoletto?</p> <p>25 A Yes.</p> <p>26 Q Have you seen this document before?</p> <p>27 A Looks like it's the third note of the \$2 million loan to them.</p> <p>28 Q And once again, if we go to page 4 of Exhibit 6, this is signed by Jason Tucker.</p> <p>29 Does that appear to be his Docusign signature as president of Takeover Industries?</p> <p>30 A I don't know his Docusign signature, but that looks to be his name and a signature.</p> <p>31 Q So this note, if we go back to page 1, and</p>
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<p>1 this is the third Whereas paragraph under Recitals, it 2 says: Whereas the purchaser desires to provide for 3 additional capital to the company for operating 4 expenses of \$500,000. 5 What were the operating expenses that you were 6 providing additional capital for to Takeover? 7 A I don't -- I don't recall specifically what 8 they were. We just wanted them to be for the 9 day-to-day operation of business, but we couldn't 10 dictate that other than what our note stated. 11 Q You say day-to-day operation of business. 12 What is your understanding of that? 13 A To me it would be regular business activities, 14 nothing fluffy. It had to go towards stuff that was 15 actual business operations. 16 Q What was your understanding of Toby McBride's 17 role at Takeover at the time that you signed the Second 18 Amendment to the Convertible Note Purchase Agreement 19 reflected here as Exhibit 6? 20 A I don't know what his title was at any given 21 time. 22 Q What was his role at the company at that time? 23 A Again, another guy listed as president. 24 Q So when you say another guy listed as 25 president, you met with Mr. McBride in April of 2022 in</p>	<p>1 not have a return on your payment of \$1.5 million? 2 MR. HARVEY: Objection. Vague. 3 Go ahead. 4 THE WITNESS: Again, I don't quite understand 5 the question. 6 BY MR. BENNION: 7 Q So when you paid three payments of \$500,000, 8 each in May, July and in August of 2022, did you 9 understand there was a risk that you may not have a 10 return on your investment? 11 MR. HARVEY: Objection. Vague. 12 THE WITNESS: Is it a possibility? Probably. 13 But was it a possibility that I could consider? 14 Probably. 15 BY MR. BENNION: 16 Q That you may not -- that you might lose the 17 \$1.5 million? 18 A No. I didn't think that at all during the 19 time, no. Everything seemed viable and everything 20 seemed that they would request each time and that was 21 the reason for the third tranche. They needed working 22 capital. 23 Q For operating expenses; correct? 24 A I believe so, yes. 25 Q Did you monitor those operating expenses after</p>
<p>Page 61</p> <p>1 Dallas at the PFL event; correct? 2 A I believe so, yes. 3 Q What was the nature of your conversation with 4 Mr. McBride at that time? 5 A He was pitching fluffy dreams. 6 Q And you invested in these fluffy dreams? 7 A No. I dug a little further and felt like 8 there was -- Tucker seemed to be a guy that, you know, 9 got along with them that understood the nature of 10 business. 11 Q Have you ever invested in other companies 12 besides Takeover Industries? 13 A Small investments maybe here and there with 14 some companies, but nothing to this nature. 15 Q When you invested with Takeover Industries or 16 contributed, and it says here in Exhibit 6 -- keep the 17 highlight on that paragraph, please -- under Recitals: 18 Whereas, the purchaser desires to provide additional 19 capital for operating expenses in the amount of 20 \$500,000. 21 And that's the third \$500,000 payment you 22 made; correct? 23 A Yes. 24 Q When you made these payments to Takeover did 25 you understand that there was a risk, that you might</p>	<p>Page 62</p> <p>1 you made these payments to the company, the first, 2 second and third \$500,000 payments? 3 A We would call in and check and try to keep our 4 thumb out of it as much as possible, but it's worth 5 listening to people's words other than anything else. 6 I believe we had a stipulation in there as well in the 7 agreement that they could only use 10 percent for 8 salaries. We wanted the remainder being used as 9 working capital. 10 Q Do you know who was paid salaries during this 11 period of time, let's say, from May through September 12 of 2022 at Takeover Industries? 13 A I do not. 14 Q Do you know if Jacob -- or Jason and Melissa 15 Tucker were receiving salaries from Takeover Industries 16 during this period of time? 17 A I do not know that. 18 Q Did you receive any reports as to who was 19 receiving salaries? 20 A I did not. 21 Q Did you ask for reports from Takeover 22 Industries as to who was receiving salaries during this 23 period of time in or about the summer of 2022? 24 A I don't recall that. I don't remember asking 25 for any reports, but it's possible.</p>

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1 Q And in asking for reports from Takeover
2 Industries, did you ever email either Mr. Tucker or
3 Mr. McBride with respect to who was receiving salaries
4 from Takeover Industries during this period of time?

5 A So I just stated that I'm unaware of those
6 salaries. So I don't know what they were using the
7 money for. I did not have access or day-to-day -- I
8 wasn't involved in day-to-day operations. I wanted to
9 protect my money.

10 Q And wanting to protect your money, did you
11 send emails to either Mr. Tucker or Mr. McBride during
12 this period of time from May through August of 2022 as
13 to who was receiving salaries at Takeover Industries?

14 A I don't recall that.

15 Q Do you recall sending any emails to Takeover
16 Industries during this period of time, May to August of
17 2022?

18 A I don't recall sending those, but I'm assuming
19 there was some communication.

20 Q In writing?

21 A Possibly. I don't feel like I had very many
22 communications with McBride or Pavlik.

23 Q Do you recall the last time you spoke to Toby
24 McBride?

25 A I do not.

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1 simply pitching dreams as --
2 A That seems to be the flavor of their -- I'm
3 sorry. Go ahead. I apologize.
4 MR. HARVEY: You gotta let him finish his
5 question.
6 THE WITNESS: Yes, sir.
7 BY MR. BENNION:
8 Q -- were simply pitching dreams as part of
9 their work at Takeover Industries?
10 MR. HARVEY: Objection. Misstates previous
11 testimony. Vague and compound and asked and answered.
12 Go ahead.
13 THE WITNESS: Yes. I believe that every
14 conversation was not substantive. It seemed to be
15 fluffy and about the dreams of the company.
16 BY MR. BENNION:
17 Q You invested with the company a month after
18 you met Mr. McBride and Mr. Pavlik; correct?
19 A Correct. Or I don't know the timing, but yes,
20 I invested.
21 Q Why did you pay Takeover Industries
22 \$1.5 million from May 2022 through August 19, 2022?
23 MR. HARVEY: Objection. Asked and answered
24 and vague.
25 Go ahead.

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1 Q Did you have any written communications with
2 Joe Pavlik or Toby McBride after you met with them in
3 April of 2022 regarding Takeover Industries?

4 A I don't recall.

5 Q Was there a person who was your point of
6 contact at Takeover Industries during this period of
7 time?

8 MR. HARVEY: Objection. Vague.
9 Go head.

10 THE WITNESS: Generally, we made that
11 Mr. Tucker because he was the only one not pitching
12 dreams and seemed to be the one that had at least
13 something to say. The other two did not.

14 BY MR. BENNION:

15 Q So it's your testimony that Mr. McBride and
16 Mr. Pavlik were simply pitching dreams as part of
17 Takeover Industries?

18 MR. HARVEY: Objection. Asked and answered.
19 Vague and misstates previous testimony.
20 Go ahead.

21 THE WITNESS: I'm sorry. Can you repeat that?

22 BY MR. BENNION:

23 Q Sure. Is it your testimony that Mr. McBride
24 and Mr. Pavlik were, when you spoke to them, including
25 your meeting in April of 2022 and thereafter, were

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1 THE WITNESS: I don't understand the question.
2 You're asking me why? In what way?
3 BY MR. BENNION:
4 Q Well, you paid them \$1.5 million; correct?
5 A Yes.
6 Q Why, if they were just -- if Mr. McBride and
7 Mr. Pavlik were just promoting dreams?
8 MR. HARVEY: Objection. Asked and answered.
9 Vague. Compound.
10 Go ahead.
11 THE WITNESS: Despite them, they did seem to
12 have good products. They did seem to have some
13 traction and so they were a detriment to the company,
14 but I was able to see, I thought, what was behind the
15 curtain and it looked to be viable products and the
16 potential of a good company.
17 BY MR. BENNION:
18 Q What were the products that were good, in your
19 opinion?
20 A The hydrogen water, specifically, was decent
21 and then their energy drinks seemed to be decent as
22 well.
23 Q Did you sample these products?
24 A I did.
25 Q Let's go to Exhibit 7. I'm going to represent

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1 these are your answers to interrogatories. Let's scan
2 down to the next page. It says: Plaintiff's Response
3 to Takeover Industries Incorporated First Set of
4 Interrogatories.

5 Do you see that, Mr. Deppoleto?

6 A Yes.

7 Q Let's scroll down to page 4 of Exhibit 7.

8 Do you recall seeing these interrogatories and
9 the response to Interrogatory No. 1 previously?

10 A I'm sorry. What was the question?

11 Q Do you recall seeing these interrogatories
12 previously?

13 A I believe so, yes.

14 Q Is your date of birth December 8, 1970?

15 A Yes.

16 Q Let's go to the final page of Exhibit 7, the
17 verification page --

18 MR. HARVEY: You're cutting out there,
19 Counsel.

20 BY MR. BENNION:

21 Q This is the last page of Exhibit 7.
22 Verification at the top, As to Answers to
23 Interrogatories, it reads: I, James V. Deppoleto Jr
24 declare the following.

25 Do you see that?

1 provided his consent and whether he provided consent

2 via verbal or written means.

3 Did I read that correctly?

4 A Yes.

5 Q Okay. So let's go down. There's some
6 objections stated in response to Interrogatory No. 2 at
7 the beginning.

8 Do you see that?

9 A Yes.

10 Q Let's go to the next page, page 5. It
11 reads -- this is your Answer to Interrogatory No. 2
12 starting with the first full sentence on page 5 of
13 Exhibit 7: Subject to and without waiving said
14 objections, Plaintiff does not know whether Mr. Zarro
15 provided consent for the loans described in paragraph
16 36 to 48 of the amended complaint.

17 And we'll go back to the amended complaint in
18 a minute.

19 Plaintiff further states that the Takeover
20 Board of Directors Tucker McBride and Pavlik and Labor
21 Smart (Costello) signed joint written consents
22 approving the note purchase agreement, first amendment,
23 second amendment and first note, second note and third
24 note. Plaintiff further states it is his understanding
25 that Mr. Zarro was not on Takeover's Board of Directors

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1 A Yes.

2 Q Is that your authorized signature at the
3 bottom of the page?

4 A Yes.

5 Q Did you review these answers to
6 interrogatories before you authorized your electronic
7 signature on the verification page?

8 A Yes.

9 Q Let's go back to Exhibit -- or to page 4 of
10 Exhibit 7. Let's go down to Interrogatory 2 and
11 Response to Interrogatory No. 2 on that page.
12 Interrogatory No. 2 states: Describe, in
13 detail, whether Mr. Zarro -- and do you know who that's
14 referring to, Mr. Zarro?

15 A How do you mean?

16 Q Do you know if that refers to Tom Zarro?

17 A I believe it does.

18 Q Who is a Defendant in your case; is that
19 correct?

20 A Yes.

21 Q It says: Describe, in detail, whether
22 Mr. Zarro provided consent to the notes and other loans
23 referenced in paragraphs 36 to 48 of your amended
24 complaint prior to those transactions being finalized
25 and memorialized, including the date that Mr. Zarro

1 at the time Plaintiff loaned Takeover the funds that

2 are the subject of this lawsuit.

3 Did I read that correctly?

4 A Yes.

5 Q You state in the second sentence there:
6 Plaintiff further states that the Takeover Board of
7 Directors (Tucker, McBride, and Pavlik) and Labor Smart
8 (Costello) signed joint written consents approving the
9 note purchase agreement, first amendment, second
10 amendment and the first note.

11 Did I read that sentence again correctly?

12 A Yes.

13 Q Okay. Have you produced any documents that
14 show that Toby McBride or Joe Pavlik signed joint
15 written consents approving these notes?

16 MR. HARVEY: Objection. Vague. Are you
17 referring to something other than the exhibits to the
18 complaint?

19 MR. BENNION: No. I'm referring to the
20 documents that are listed here, the note purchase
21 agreement.

22 MR. HARVEY: Right. So for example, Exhibit G
23 to the complaint is one of the joint written consent.
24 Are you referring to something other than that?

25 You were breaking up. We couldn't hear you.

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<p>1 MR. BENNION: State your objection if you have 2 one.</p> <p>3 MR. HARVEY: I'll object to the extent that 4 it's misleading, it misstates the documents in the 5 case, including the pleadings in the case, which 6 include the joint written consents.</p> <p>7 THE WITNESS: What's the question?</p> <p>8 BY MR. BENNION:</p> <p>9 Q Have you produced the joint written consents 10 referred to here in your Answer to Interrogatory No. 2 11 approving the note purchase agreement, the first 12 amendment, the second amendment and the first note, 13 second note and third note?</p> <p>14 A I believe my attorney answered that. I 15 believe we have, yes.</p> <p>16 Q When did you first speak to Tom Zarro?</p> <p>17 A I don't recall.</p> <p>18 Q Not in 2022, according to your Answer to 19 Interrogatory No. 2; is that correct?</p> <p>20 A I don't believe we had a conversation in 21 2022 -- I don't know. I'm not sure.</p> <p>22 MR. HARVEY: Counsel, I'm sorry. I misstated. 23 I just want to clarify for the record, I was referring 24 to Exhibit G to the complaint. I don't think it was 25 Exhibit G to the complaint. I was referring to</p>	<p>1 A I spoke to him then. I met him in the April 2 time frame.</p> <p>3 Q And what gave rise to your conversation via 4 phone with Mr. Tucker in 2021?</p> <p>5 A They were -- really was a spinoff of having 6 conversations with my cousin. I believe they were 7 asking him to be some kind of influencer and then 8 offered him an ability to buy-in for some shares of the 9 company. That was the initial.</p> <p>10 Q And how many times did you speak with 11 Mr. Tucker in November or December 2021?</p> <p>12 A Maybe once. I believe my cousin did most -- 13 was handling most of it in the beginning.</p> <p>14 Q Are you talking about Mr. Pettis?</p> <p>15 A Correct.</p> <p>16 Q It says: The parties' relationship was 17 limited to an arms-length, professional relationship.</p> <p>18 Q What was the professional relationship?</p> <p>19 A I was an investor. This guy is not my friend. 20 He is a guy I was doing business with and I would use 21 that moniker for all these guys. None of these guys 22 are my friends. I was here doing business with them.</p> <p>23 Q You testified previously that you invested in 24 other companies, but in lesser amounts than your 25 payments to Takeover; is that correct?</p>
<p>1 Document 25-7, which is, I think, Exhibit G to 2 something else. I just want to clarify. I apologize 3 for being misleading.</p> <p>4 MR. BENNION: Thank you.</p> <p>5 BY MR. BENNION:</p> <p>6 Q Now, let's go to Interrogatory No. 3 down a 7 little farther. Interrogatory No. 3 says: Describe in 8 detail your relationship with Jason Tucker, including 9 how long you have known him, when you first met, the 10 circumstances of your meeting, and the nature of your 11 relationship.</p> <p>12 Response: Plaintiff objects to Interrogatory 13 No. 3 because of the circumstances of your meeting and 14 the nature of your relationship are undefined, vague 15 and ambiguous.</p> <p>16 Skipping ahead a sentence it says: Subject to 17 and without waiving said objections, Plaintiff states 18 that he met Mr. Tucker in November or December of 2021 19 through Plaintiff's involvement with Takeover. The 20 parties' relationship was limited to an arms-length, 21 professional relationship.</p> <p>22 Did I read that correctly?</p> <p>23 A Yes.</p> <p>24 Q So you met Mr. Tucker in November or December 25 of 2021, not April 2022; correct?</p>	<p>1 A I believe I said if I did it was smaller 2 amounts to different smaller companies, potentially. I 3 cannot recall them.</p> <p>4 Q Which companies --</p> <p>5 A I cannot recall them.</p> <p>6 Q Was your investment in these companies before 7 or after your investment in Takeover?</p> <p>8 A It would be before.</p> <p>9 Q Okay. Let's go further down to Interrogatory 10 No. 6 in Exhibit 7. These are Plaintiff's Answers to 11 Interrogatories. It says in Interrogatory No. 6: 12 Explain in detail the factual basis for your 13 allegations in paragraph 72 of your amended complaint 14 that Defendants shared and/or transferred Takeover's 15 proprietary information, trade secrets, inventory, 16 product ingredients, and other assets with NextGen 17 Beverages.</p> <p>18 Did I read that correctly?</p> <p>19 A Yes.</p> <p>20 Q So what is your basis for stating that 21 Defendants transferred Takeover's proprietary 22 information and specifically product ingredients with 23 NextGen Beverages?</p> <p>24 MR. HARVEY: Objection. Vague as to time as 25 to whether -- you mean when he signed this or today?</p>

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<p>1 Go ahead.</p> <p>2 BY MR. BENNION:</p> <p>3 Q At the time you signed the Answers to</p> <p>4 Interrogatories, which are Exhibit 7.</p> <p>5 A And then what is the question?</p> <p>6 Q What is your basis for stating that Defendants</p> <p>7 transferred Takeover's proprietary information,</p> <p>8 specifically product ingredients and other aspects to</p> <p>9 NextGen Beverages?</p> <p>10 MR. HARVEY: I'll just object that the</p> <p>11 document speaks for itself.</p> <p>12 Go ahead.</p> <p>13 THE WITNESS: It's our opinion that they --</p> <p>14 everything that they're holding now is from the</p> <p>15 Takeover time period. They have not ceased doing</p> <p>16 business and they have done it from Takeover's end.</p> <p>17 BY MR. BENNION:</p> <p>18 Q So product ingredients, what do you mean by</p> <p>19 that?</p> <p>20 A Ingredients in a product.</p> <p>21 MR. HARVEY: Same objections.</p> <p>22 Go ahead.</p> <p>23 BY MR. BENNION:</p> <p>24 Q And how do you know Takeover Industries shared</p> <p>25 or transferred product ingredients with NextGen</p>	<p>1 states.</p> <p>2 Q A brand ambassador for whom?</p> <p>3 A All -- I believe all those companies. I've</p> <p>4 seen him wearing Lockedin. I've seen him wearing NXT</p> <p>5 LVL shirts. So he's very much involved with Takeover</p> <p>6 and now they have moved it over to NextGen and all the</p> <p>7 companies in their umbrella now. I believe he's a</p> <p>8 brand ambassador to them.</p> <p>9 Q And when you say them, who are you referring</p> <p>10 to specifically?</p> <p>11 A Takeover, NextGen, Legacy, whatever company</p> <p>12 names they've tried to convolute. All of them.</p> <p>13 Q Okay. Let's -- I think I'm going to go to an</p> <p>14 exhibit that I didn't plan to go to.</p> <p>15 MR. BENNION: Patrick, did I send you 11</p> <p>16 exhibits?</p> <p>17 THE WITNESS: Yes.</p> <p>18 MR. BENNION: Let's take a three-minute break</p> <p>19 and I'm going to try to adhere to the three-minute</p> <p>20 break because I'm going to use an exhibit that I didn't</p> <p>21 provide. It's a one-page document. So we'll take a</p> <p>22 three-minute break.</p> <p>23 (Recess taken.)</p> <p>24 (Discussion held off record.)</p> <p>25 BY MR. BENNION:</p>
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1 Beverages?

2 A Again, I believe it states there: He believes

3 the Defendant shared or transferred Takeover's

4 propriety information.

5 Q And what's your basis of that statement?

6 MR. HARVEY: Same objection.

7 Go ahead.

8 THE WITNESS: Logic.

9 BY MR. BENNION:

10 Q How so?

11 A Well, the business hasn't stopped doing

12 business and has continued to do business and then spun

13 it off into another area with the same products. It

14 seemed to be the same business to me.

15 Q Would that also apply to the 5-hour Energy

16 shot?

17 A What 5-hour Energy shot?

18 Q You've never done business with 5-hour Energy?

19 A I stated that repeatedly that I have not.

20 Q Let's go down further or farther.

21 Have you ever met Manny Pacquiao?

22 A I have not.

23 Q Are you aware of any business dealings between

24 Takeover and/or NextGen Beverages with Manny Pacquiao?

25 A I believe he is a brand ambassador, as it

1 Q This is Exhibit 12.

2 Mr. Deppoletto, do you see where it says

3 NXT LVL at the top of the document on the top left?

4 A Mm-hmm.

5 Q Is that yes?

6 A Yes.

7 Q What does that reference for you?

8 A NXT LVL.

9 Q Okay. It says: /5-hour Energy Accelerator

10 Partnership; correct?

11 A Mm-hmm.

12 Q Is that yes?

13 A Yes.

14 Q Have you ever had any discussions with Jason

15 Tucker regarding 5-hour Energy will invest in NXT LVL'S

16 parent company?

17 A No.

18 Q Have you had any emails or sent any emails to

19 Jason Tucker or Michael Costello regarding: The

20 investment will provide Living Essentials LLC with a

21 stake in the company and its brands?

22 A To my knowledge, there's no deal, no anything.

23 So I'm not quite sure what you're discussing here.

24 Q When you say no deal, what do you mean?

25 A I don't believe that a deal exists. I don't

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<p>1 believe this exists.</p> <p>2 Q Have you seen this document before?</p> <p>3 A I have not.</p> <p>4 Q If you go down to bullet point No. 3 – I'm sorry, 4, it says: Support NXT LVL Gamer Shot, T-Pain's NXT LVL Gamer Shot, and future products to include T-Pain's NXT LVL Gamer Energy Drink.</p> <p>5 Is it your testimony you've had no negotiations with T-Pain regarding this NXT LVL gamer shot?</p> <p>6 A I've had no dealings with T-Pain on any of this, no.</p> <p>7 Q And it's your testimony the last time that you had dealings with T-Pain directly was in June of 2022 when you met him at his office in Atlanta?</p> <p>8 MR. HARVEY: Objection. Misstates previous testimony.</p> <p>9 Go ahead.</p> <p>10 THE WITNESS: The last time I met T-Pain, yes, I did not have any business discussions at all.</p> <p>11 BY MR. BENNION:</p> <p>12 Q Ever?</p> <p>13 A No.</p> <p>14 Q Not with T-Pain?</p> <p>15 A Not with T-Pain, no.</p>	<p>1 A I'm an investor. I loaned them money.</p> <p>2 Q How much?</p> <p>3 A \$2 million.</p> <p>4 Q Okay. Let's go back to -- step away from Exhibit 12 for a minute.</p> <p>5 Do you know who Nicolette Carothers is?</p> <p>6 MR. HARVEY: I'm sorry. You're cutting out, Counsel.</p> <p>7 BY MR. BENNION:</p> <p>8 Q Do you know who Nicolette Carothers is?</p> <p>9 A I do not.</p> <p>10 Q Are you familiar with Nappy Boy Entertainment?</p> <p>11 A I believe it's something associated with T-Pain.</p> <p>12 Q To your knowledge, have you received emails from Nappy Boy Entertainment?</p> <p>13 A To my knowledge, I have not received anything from them.</p> <p>14 Q Let's go back to Answers to Interrogatories, Exhibit 7. So if we go to page 8 of Exhibit 7, this is Interrogatory No. 9. Actually, it looks like there's a mistake in numbers. There's two Answers to Interrogatories No. 9 here on page 8.</p> <p>15 Do you see that, Mr. Deppoleto, at the top?</p> <p>16 A I see four No. 9s there, yes.</p>
<p>17 Page 81</p> <p>1 Q Have you had discussions, negotiations with Jason Tucker regarding doing business with T-Pain?</p> <p>2 A I haven't had any negotiation discussions with Jason Tucker discussing T-Pain.</p> <p>3 Q Have you provided financial loans or investment to any other companies in which Jason Tucker is or has been involved?</p> <p>4 A No.</p> <p>5 Q So if you go down farther on this Exhibit 12 under the heading: Why is NXT LVL a good fit to partner with 5-hour. The third to the last bullet point in that section says: NXT LVL is aligned with the leading beverage broker in the country, LA Libations.</p> <p>6 Are you familiar with LA Libations?</p> <p>7 A Not really.</p> <p>8 Q When say not really, what does that mean?</p> <p>9 A I heard their name before, but I don't know really what they do.</p> <p>10 Q You've had no association with them?</p> <p>11 A Zero.</p> <p>12 Q And then the last bullet point on the page, Exhibit 12, says: NXT LVL is in the R&D process of creating brand extensions (Gamer Energy Drinks).</p> <p>13 What has been your involvement with NXT LVL?</p>	<p>17 Page 83</p> <p>1 Q Right. There's two Interrogatory No. 9s here.</p> <p>2 So we're going to talk about the second Interrogatory</p> <p>3 No. 9. And going back just to refresh your recollection –</p> <p>4 MR. BENNION: Go back to the last page,</p> <p>5 Daniel – actually, page – there we are. The verification.</p> <p>6 BY MR. BENNION:</p> <p>7 Q These are the Answers to Interrogatories that you verified; correct?</p> <p>8 A Are you asking me a question?</p> <p>9 Q Yes. That's your verification to these</p> <p>10 Answers to Interrogatories; correct?</p> <p>11 A I believe we've answered that, but yes.</p> <p>12 Q Okay. Just refreshing your recollection.</p> <p>13 So Interrogatory No. 9, it says: Explain in</p> <p>14 detail the factual basis for your allegation in</p> <p>15 Paragraph 26 of your Amended Complaint that Mike Holley</p> <p>16 authorized over \$750,000 in distributions without</p> <p>17 obtaining approval from Takeover's Board of Directors.</p> <p>18 After your objections and the response to</p> <p>19 Interrogatory 9, in the last sentence it says: Subject</p> <p>20 to and without waiving the foregoing objections, these</p> <p>21 allegations are based on paragraph 34(a) of Takeover's</p> <p>22 Verified Complaint filed in Takeover v. Holley case in</p>

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1 the District of Arizona, with a case number listed.
2 Are you involved in that case, the Takeover v.
3 Holley, et al. case in the District of Arizona as a
4 party?
5 A I don't believe that I am.
6 Q Do you recall, as we sit here in this
7 deposition, the allegations that are contained in
8 paragraph 34(a) of Takeover's Verified Complaint in
9 that case?
10 A What are you asking?
11 Q What is your basis for stating that Mike
12 Holley authorized over \$750,000 in distributions
13 without obtaining approval from Takeover's Board of
14 Directors?
15 A Let me read it to you. It says: Subject to
16 and without waiving the foregoing objections, these
17 allegations are based on paragraph 34(a) of Takeover's
18 Verified Complaint filed in Takeover v. Holley, et al.
19 in the United States District Court for the District of
20 Arizona, Case No. 2:22-cv-00357.
21 That's my answer.
22 Q I understand that. Do you have any personal
23 knowledge?
24 A I do not.
25 Q Thank you.

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1 BY MR. BENNION:
2 Q You agree that in your answer to interrogatory
3 that you said that Plaintiff further objects to this
4 interrogatory as it calls for a narrative response that
5 is better suited for deposition testimony; correct?
6 MR. HARVEY: Objection. Misstates all of the
7 objections that apply.
8 Go ahead.
9 THE WITNESS: What is the question again?
10 BY MR. BENNION:
11 Q Well, rather than answer, you object to the
12 interrogatory, it's better suited for deposition
13 testimony. We're here for your deposition today so
14 I'd --
15 A And I believe -- go ahead. I'm sorry. My
16 fault.
17 Q Identify and describe in detail all
18 conversations that you've had with Jason Tucker that
19 are in any way related to any Defendants or any of your
20 claims in the Amended Complaint of January 1, 2021 to
21 the present.
22 A I cannot recall any conversations about the
23 Defendants at all.
24 Q Have you ever suffered from memory loss
25 problems that you're aware of?

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1 Let's go down to Interrogatory No. 10, just a
2 few lines below.
3 Interrogatory No. 10: Identify and describe
4 in detail all conversations and communications you have
5 had with Jason Tucker (whether the person, via phone,
6 text, email, or other means) that are in any way
7 related to any Defendants or any of your claims in the
8 Amended Complaint from January 1, 2021 to the present.
9 Now, let's go to the next page and skip
10 through the objections. It says in the last sentence
11 here it says: Plaintiff further -- the last two
12 sentences to Answer to Interrogatory 10: Plaintiff
13 further objects that Interrogatory calls for a
14 narrative response that is better suited for deposition
15 testimony. Based on these objections, Plaintiff is
16 unable to respond to this Interrogatory.
17 So what communications -- we'll start with
18 conversations you've had with Jason Tucker that are in
19 any way related to the Defendants or any of your claims
20 in the Amended Complaint from January 1, 2021 through
21 now?
22 MR. HARVEY: Objection. Vague and overbroad.
23 Go ahead.
24 THE WITNESS: I don't know how to answer that
25 question.

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1 A No.
2 Q Never been treated for that?
3 A No.
4 Q Okay. Thank you.
5 Let's go to page 9 of Exhibit 7. It's a
6 little bit farther down, Interrogatory No. 12.
7 Do you see this, Mr. Depooleto?
8 A Yes.
9 Q Explain in detail the factual basis for your
10 allegation in Paragraph 74 of your Amended Complaint
11 that Defendants "transferred assets and inventory to
12 NextGen Beverages, without reasonable consideration in
13 return."
14 And then you refer to answers 6 and 8. So
15 we're doing a little bit of going back and forth here.
16 So let's go back to your Response to Interrogatory
17 No. 6. You remember we're talking about transferred
18 assets and inventory from Takeover to NextGen
19 Beverages; do you recall that?
20 A The question you just asked, I believe?
21 Q Yes. Do you recall that's the subject matter
22 of what we're talking about, transfer of assets from
23 Takeover Industries to NextGen Beverages?
24 A Yes.
25 Q Go back to Response to Interrogatory No. 6.

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1 It states: Explain in detail the factual basis for
2 your allegation in Paragraph 72 of your Amended
3 Complaint that Defendants shared and/or transferred
4 Takeover's proprietary information, trade secrets,
5 inventory, product ingredients, and other assets with
6 NextGen Beverages.

7 And you state in your answer to interrogatory
8 in the second to last line: Plaintiff states that he
9 believes that Defendants shared and/or transferred
10 Takeover's proprietary information, trade secrets,
11 inventory, product ingredients, and other assets with
12 NextGen beverages.

13 And then you go on to list five bullet points
14 on the next page.

15 Do you see that?

16 A Yes.

17 Q In No. 3 you say: NextGen Beverages
18 manufactures similar products as Takeover did.

19 What products are similar?

20 A Energy shots, hydrogen drinks, whatever they
21 had originally they're doing with this other company,
22 or so it appears.

23 Q And you state in No. 5: NextGen Beverages
24 advertised Takeover's products on NextGen Beverages'
25 website lockedin.com.

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1 also Exhibit 7 to the Michael Holley deposition.

2 Have you seen this document before,

3 Mr. Deppoletto?

4 A I believe so, yes.

5 Q And this is a letter from your attorneys, the
6 Defendants?

7 MR. BENNION: Let's go up a little higher on
8 the document, Dan.

9 BY MR. BENNION:

10 Q Who is this letter written to?

11 A The individuals listed on the letter.

12 Q Let's go down a little further. It's
13 addressed to Joe Pavlik on his own; correct?

14 A Looks to be, yes.

15 Q It's titled Notice of Default, Demand for
16 Payment & Cease and Desist and it's dated November 8,
17 2022; is that correct?

18 A I don't see the date.

19 There you go, yes.

20 Q And did you authorize this letter to be sent?

21 A If it came from my attorneys, then yes.

22 Q Husch Blackwell, that's your attorney?

23 A Hush Blackwell is my attorney.

24 Q This came on your behalf; is that correct?

25 A Correct.

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1 Do you see that?

2 A I do.

3 Q What is your basis for saying that?

4 A I believe they were selling T-Pain products
5 off of that website and selling old products to people
6 in the early going. So pretty factual. Check their
7 Amazon sheet.

8 Q For how long?

9 A I'm sorry?

10 Q For how long a period of time do you allege
11 that they were doing that?

12 A I believe until that product expired and they
13 no longer could sell it because it was expired.

14 Q So how long is that?

15 A When the product expired. So I'm not sure
16 when that was.

17 Q So you don't know?

18 A There's an expiration date on those bottles
19 that they have. I'm not sure what that date was.

20 Q But you're not aware of the period of time;
21 correct?

22 A Correct.

23 Q Let's go to Interrogatory 8. Before we go to
24 Response to Interrogatory No. 8, let's go to
25 Exhibit 11. This is the Notice of Default. This is

1 Q Let's go down a little farther.

2 Why was this demand letter sent on your behalf
3 on November 8, 2022?

4 MR. HARVEY: I'm going to caution you not to
5 disclose attorney-client privileged communications. To
6 the extent that your answer would require you to
7 disclose privileged communications, I'm instructing you
8 not to answer. If you can answer this question without
9 disclosing attorney-client privileged communications,
10 you may answer.

11 Go ahead.

12 THE WITNESS: Looks to be Notice of Default,
13 Demand for Payment & Cease and Desist.

14 BY MR. BENNION:

15 Q I understand that. Why did you instruct your
16 attorneys to send this letter dated November 8, 2022?
17 Again, agreeing with Counsel not to disclose any
18 attorney-client privilege.

19 A I don't know how to answer that question.

20 Q Was there something that happened prior to
21 November 8, 2022, that made you instruct your attorneys
22 to issue this letter?

23 MR. HARVEY: Same instructions. Also, I'll
24 object that the document speaks for itself.

25 Go ahead.

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<p>1 THE WITNESS: What is the question again? I'm 2 sorry.</p> <p>3 BY MR. BENNION:</p> <p>4 Q Was there something that happened prior to 5 November 8, 2022, that caused you to have your 6 attorneys issue this letter?</p> <p>7 MR. HARVEY: Same instruction and same 8 objection. The document speaks for itself.</p> <p>9 THE WITNESS: The document speaks for itself.</p> <p>10 BY MR. BENNION:</p> <p>11 Q So there's nothing that happened before this 12 that caused you to think that you should have your 13 attorneys issue this letter?</p> <p>14 A I did not say that.</p> <p>15 Q Well, then please answer the question.</p> <p>16 A Again, the document speaks for itself.</p> <p>17 Q Was there something that happened before this 18 document was written?</p> <p>19 A The document speaks for itself.</p> <p>20 Q Was there something that happened before this letter was written that caused you to instruct your attorneys to issue this letter?</p> <p>21 MR. HARVEY: I'm going to object. This seems 22 to be an attempt to invade the attorney-client privilege.</p>	<p>1 A I believe so, yes.</p> <p>2 Q Let's go to page 4 of Exhibit 11, the very 3 bottom of paragraph 4. It says, underlined: Matters 4 Concerning the Company's Management and Messrs. Holley, 5 McBride, and Pavlik. It says in bold and all caps: 6 MR. DEPPOLETO HEREBY DEMANDS THAT MESSRS. HOLLEY, 7 MCBRIDE, AND PAVLIK CEASE AND DESIST ACTING ON BEHALF 8 OF THE COMPANY.</p> <p>9 Did I read that accurately?</p> <p>10 A I believe so, yes.</p> <p>11 Q I'm not going to try to beat a dead horse here, but -- and I'm not trying to invade the attorney-client privilege, but if I were to ask you if there was an event prior to November 8, 2022, that caused you to have your attorneys write this letter, what would your answer be?</p> <p>12 MR. HARVEY: Again, objection. The document speaks for itself. I'd also ask that the witness be allowed to read all of paragraph 4.</p> <p>13 MR. BENNION: Sure. Read the entire document. I'm not trying to rush him through this.</p> <p>14 MR. HARVEY: I have a printed copy. I don't know if he'll be able to read it because it's printed four sheets per page, but I do think in fairness he should be able to review the document.</p>
<p>Page 93</p> <p>1 To the extent you can answer without 2 disclosing privileged communications, you may answer. 3 If you have to disclose privileged communications, I'm 4 instructing you not to answer.</p> <p>5 THE WITNESS: I cannot answer.</p> <p>6 BY MR. BENNION:</p> <p>7 Q I just want to be clear. I'm not seeking to 8 invade the attorney-client privilege. I'm just seeking 9 was there an event that happened prior to this day –</p> <p>10 A Again -- go ahead. I didn't mean to cut you off.</p> <p>11 Q -- November 8, 2022, such as something that 12 Toby McBride did or something that Joe Pavlik did?</p> <p>13 MR. HARVEY: Again, object. The document 14 speaks for itself and object to the extent he's being 15 asked to disclose attorney-client privileges and asked 16 and answered, which I think he has.</p> <p>17 Go ahead.</p> <p>18 THE WITNESS: The document speaks for itself. 19 I don't know how else to answer that for you, sir.</p> <p>20 BY MR. BENNION:</p> <p>21 Q All right. Well, let's go through the document.</p> <p>22 You've seen this document before, correct, 23 Mr. Deppoleto?</p>	<p>Page 95</p> <p>1 MR. BENNION: I agree. I'm just going to 2 stand up and stretch my legs.</p> <p>3 THE WITNESS: Okay.</p> <p>4 BY MR. BENNION:</p> <p>5 Q So you've read this document in its entirety, 6 Mr. Deppoleto?</p> <p>7 A I read paragraph 4, yes, or statement 4.</p> <p>8 Q Why don't you read the entire -- well, let's 9 stay on paragraph 4 that you've read and get as much 10 traction as we can, or not.</p> <p>11 Was there an event that occurred before 12 November 8, 2022, regarding the company's management 13 and Messrs. Holley, McBride, and Pavlik that caused you 14 to instruct your attorneys to write this letter?</p> <p>15 MR. HARVEY: And again, if you have personal 16 knowledge outside of your discussions with your 17 attorneys, you can answer as to your personal 18 knowledge. If your knowledge comes from discussions 19 with attorneys, I'm instructing you not to answer.</p> <p>20 THE WITNESS: Yeah. No. I mean, everything 21 was discussed with you guys, so.</p> <p>22 BY MR. BENNION:</p> <p>23 Q So there's no answer provided; is that 24 correct?</p> <p>25 MR. HARVEY: He's saying he has no personal</p>

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<p>1 knowledge outside of discussions with his attorneys. I 2 don't know if you heard his answer. 3 MR. BENNION: I did hear his answer. 4 BY MR. BENNION: 5 Q Is that correct, Mr. Deppoleto, what your 6 attorney said, that's your testimony? 7 A Correct. 8 Q Okay. Let's go back to -- let's go to 9 Exhibit 8. You know what? Let's go to Exhibit 9. I 10 want to do this in chronological order. Yeah, let's go 11 to Exhibit 9. 12 So Exhibit 9 says at the top, it says 13 October 13, 2022. 14 Have you seen this document before, 15 Mr. Deppoleto? 16 A I'm not sure. 17 Q Let's go down to the bottom -- well, are you 18 familiar with Great Northern Corporation -- 19 A Yes. 20 Q What is that corporation? 21 A I believe that's the company that made the 22 displays that, I believe, Mr. Zarro has in his 23 warehouse. 24 Q When you say -- and why do you say -- well, 25 first of all, displays, what does that mean?</p>	<p>1 is the fourth note that instead of giving them money 2 direct, because I began to lose confidence in them, I 3 paid this bill direct to Great Northern for their 4 displays. 5 Q Who asked you to make this payment? 6 A The company. 7 Q Who at the company? 8 A Whoever was in charge at the time expressed 9 that they needed money to pay for these displays and I 10 was no longer interested in giving them money direct, 11 but I offered to pay this bill direct so I knew the 12 money was going exactly where it was supposed to go. 13 Q And so you don't recall if it was Jason Tucker 14 that authorized this payment of \$386,773.86? 15 A He did not authorize the payment, no. 16 Q Well, who did? 17 MR. HARVEY: I'll object as vague as to the 18 term authorized. 19 Go ahead. 20 THE WITNESS: Yes. So I'm the one who 21 authorized the payment. The company is who requested 22 that they needed their additional 500,000 and I knew it 23 was going to this bill. I preferred to pay this direct 24 instead. 25 BY MR. BENNION:</p>
<p>1 A They made energy drink displays for the 2 company. 3 Q For Takeover Industries? 4 A I believe so, yes. 5 Q And what is your understanding of the purpose 6 of the display? 7 A To house their energy drinks. I believe 8 they're supposed to be going into Walgreens. 9 Q Did you authorize payment -- strike that. 10 Let's go down -- under Customer Information it 11 lists your name and American Express Card, credit card 12 type and then your address. 13 Is that your address, 1600 Paramount Drive, 14 Waukesha, Wisconsin? 15 A Yes. 16 Q Did you issue and authorize this payment? 17 A I did. 18 Q Who authorized you to make this payment? 19 A I authorized me to make that payment. 20 Q How so? 21 A I don't understand your question. 22 Q Did somebody at Takeover authorize you to make 23 this payment? 24 A So again, our loan was supposed to be 25 \$2 million. You listed three notes of 500,000. This</p>	<p>Page 97</p> <p>1 Q And when you say they, is that just a 2 reference to the company or is that -- 3 A Yeah -- I'm sorry. It's a reference to the 4 company and which one of the presidents was in charge 5 at the time, I guess. 6 Q Do you have any other written documentation 7 regarding your payment of this invoice? 8 A In what way? I'm sorry. 9 Q Any other written documentation? 10 A I would assume we have recordkeeping for us, 11 yes. 12 Q Recordkeeping for us, which means? 13 A Quintec or James. 14 Q Did you say James? 15 A Myself, James Deppoleto. 16 Q Okay. Thank you. I'm just clarifying. 17 Is this your personal American Express account 18 or the company Quintec -- 19 A All personal to me. 20 Q Okay. Let's go to Exhibit 8 -- well, I want 21 to go back to, I apologize, back to Exhibit 9 for one 22 more question. 23 So this receipt is dated October 13, 2022; 24 correct? 25 A Looks to be.</p>

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<p>1 Q Do you know what Toby McBride's involvement 2 with Takeover Industries was on October 13, 2022? 3 A I do not. 4 Q So let's go to Exhibit 8. This is another 5 receipt from Great Northern Corporation. 6 Do you see that? 7 A Yes. 8 Q Dated November 4, 2022; correct? 9 A Yes. 10 Q This appears to be on your American Express 11 Card again; is that correct? 12 A Yes. 13 Q For \$128,924.62; correct? 14 A Yes. 15 Q So the same question with respect to Exhibit 8 16 as Exhibit 9, is there any difference in your answer? 17 I can go back through them individually if you'd like, 18 but -- 19 A It's the same bill -- or it's a different 20 bill, but again, it totaled up to 480-some thousand 21 dollars, I believe, total. 22 Q Okay. And you don't recall who specifically 23 authorized you at Takeover Industries to make this 24 payment reflected in Exhibit 8; correct? 25 MR. HARVEY: Objection. Vague as to</p>	<p>1 question about Joe Pavlik, who is on the call. He's a 2 Defendant in this case. Is this you Joe, you're a 3 Defendant in this case? 4 MR. PAVLIK: Yes. I'm just listening in on 5 mute. 6 MR. BENNION: Okay. 7 MR. HARVEY: I don't mean to be picky, but -- 8 so he just spoke through Zoom, my question was about 9 the person who joined recently under the phone number 10 216-970-8229. Mr. Pavlik, is that your phone number? 11 MR. PAVLIK: Yeah. I had to run out to the 12 drugstore to pick up a prescription. 13 MR. HARVEY: That's fine. Thank you for 14 clarifying. 15 MR. PAVLIK: You got it. 16 BY MR. BENNION: 17 Q Let's go to Exhibit 6. We skipped this 18 before. 19 So Mr. Deppoleto, can you see Exhibit 6, which 20 is the Second Amendment to Convertible Note Purchase 21 Agreement? 22 A Yes. 23 MR. HARVEY: I think we did this one before 24 because I wrote it down. 25 THE WITNESS: We did the second note, third</p>
<p>1 authorized. 2 Go ahead. 3 THE WITNESS: Again, they were requesting the 4 500,000 and this is where my 500,000 went. 5 BY MR. BENNION: 6 Q Okay. So -- 7 A I no longer felt comfortable giving them 8 money. I wasn't confident in any of those guys at that 9 point. 10 Q So they were requesting, but once again, 11 that's a reference to the company, not to individuals? 12 A Correct. 13 Q Okay. 14 MR. BENNION: We'd simply request production 15 of any additional documents that as Mr. Deppoleto said 16 previously that may exist that Quintec or personally 17 with respect to these two receipts, which are reflected 18 in Exhibits 8 and 9. 19 MR. HARVEY: I believe we've produced 20 everything that we have. 21 MR. BENNION: Okay. Duly noted. 22 Let's take about a 10-minute break here. Off 23 the record. 24 (Recess taken.) 25 MR. BENNION: During the break Patrick had a</p>	<p>1 note and first note. 2 MR. HARVEY: You did bring it up before. 3 MR. BENNION: I did ask questions about it. 4 Barbara, have we used this exhibit before? 5 EXHIBIT TECH: I can tell you from my history, 6 Counsel, I did bring it up. 7 BY MR. BENNION: 8 Q All right. Let's be very brief about this. 9 Referenced it briefly previously. 10 So Mr. Deppoleto, trying to streamline this -- 11 MR. BENNION: If you can go down to the bottom 12 of the page, Daniel, to show Mr. Deppoleto Exhibit 6. 13 BY MR. BENNION: 14 Q Do you see that, Mr. Deppoleto? 15 A Yes. 16 Q Have you seen this Second Amendment to 17 Convertible Note Purchase Agreement previously? 18 A Yes. 19 Q Okay. And I don't believe I asked you this 20 question about Exhibit 6 before, but under the 21 Recitals, paragraph 3 -- let's go to paragraph 2 -- no, 22 we're just going to go to paragraph 3 -- no. 23 MR. BENNION: I'm sorry, Daniel, go back into 24 the Whereas. 25 EXHIBIT TECH: That's what we've covered. You</p>

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<p>1 covered page 1 and page 4, in case you need reference. 2 MR. BENNION: Thank you. 3 BY MR. BENNION: 4 Q So this says, again, Mr. Deppoleto, Whereas 5 paragraph 3, on page 1 of Exhibit 6: Whereas the 6 Purchaser desires to provide additional capital to the 7 company for operating expenses in the amount of 8 \$500,000 (the Additional Note Consideration). 9 Did you ever – is that correct, did I read 10 that correctly? 11 A Yes. 12 Q Did you ever receive a report from Jason 13 Tucker at Takeover Industries as to how these operating 14 expenses were being used? 15 A I don't recall. It's possible. It's also 16 possible it wasn't so I'm not sure. 17 Q Do you recall receiving a report about how the 18 operating expenses were being used by anyone other than 19 Jason Tucker at Takeover, such as Toby McBride or Joe 20 Pavlik? 21 A As I said, I don't recall any of -- a specific 22 individual. 23 Q And you don't recall receiving a report 24 regarding how your additional capital for the company 25 for operating expenses –</p>	Page 105	<p>1 Q And you didn't receive even annual reports or 2 let's say a quarterly report? 3 A I don't believe they produced any quarterly or 4 yearly reports, as far as I know. 5 Q Did you ask for any such reports? 6 A I don't believe so. But again, we were 7 monitoring our money. We wanted to make sure that it 8 was being used for operating, but I don't know that we 9 requested anything in that regard. We just hit that 10 point home. 11 Q When you testified that you're monitoring your 12 money, what does that mean? 13 A Just calling and inquiring: How's business? 14 How are things going? How are sales? 15 Again, we're investing in a business. We're 16 hoping that they do well. And everything pointed to 17 the direction that they looked like they were doing 18 well. 19 Q Have you ever lost money as an investor of a 20 company either before or after the payment of your 21 monies to Takeover? 22 A No. I don't believe there's anything that 23 would show a loss, no. 24 Q I'm trying to wrap it up here, but I need 25 30 seconds to gather my notes.</p>	Page 107
<p>1 A The only thing I could see that relating to is 2 the fact that, again, we put a percentage that we only 3 wanted to be used for salaries at 10 percent and I 4 think the remainder had to be used for all operating 5 expenses, whatever they were. So I don't remember 6 calling for a list because I don't know that I needed a 7 list. They could only do 10 percent for salaries and 8 the remainder had to go to operating expenses. 9 Q So when you issued your -- when your attorneys 10 wrote the notice of default letter dated November 12, 11 2022, do you know how much money Takeover Industries 12 had in its account on or about November 8, 2022? 13 A No. I'm sorry, I do not. 14 Q Did you ever request reports from anybody at 15 Takeover Industries with regard to the status of the 16 money in Takeover Industries' accounts during the time 17 that you -- from May 25, 2022, through November 8, 18 2022, that Takeover had in its possession? 19 A Say that again. I'm sorry, I missed that 20 first part. 21 Q Sure. We were talking a minute ago about you 22 didn't ask for reports with respect to how much money 23 was being used by Takeover Industries for operating 24 expenses, say, on a monthly basis; correct? 25 A Correct.</p>	Page 106	<p>1 You testified previously, Mr. Deppoleto, that 2 you didn't meet Mike Holley until, I believe, you were 3 at a hearing in the case in Arizona; is that correct? 4 A I believe that's correct. 5 Q Do you know why Mike Holley was not involved 6 in the company, or at least that you didn't meet him 7 when you went to these events in April and June of 2022 8 in Dallas and Atlanta? 9 A I don't know when I heard about it, but I just 10 had heard that there was some improprieties that had 11 happened or that they had discovered or something and I 12 think that included Holley, Pavlik and McBride. 13 Q What were the improprieties that you heard 14 about involving Mike Holley? 15 A I believe they were stealing money from the 16 company. 17 Q And who told you that? 18 A Tucker, for one. I would say probably Tucker 19 was the one who maybe discovered it. 20 Q Jason Tucker? 21 A Yes. 22 Q And did he tell you how he discovered this 23 alleged impropriety? 24 A I believe they said their accounting team 25 potentially found the improprieties and dug backwards</p>	Page 108

James V. Deppoleto, Jr. - 12/5/2024
James V. Deppoleto, Jr. vs. Takeover Industries, Inc., et al.

<p>1 and found amounts that were missing or gone or 2 something to that nature.</p> <p>3 Q And you also mentioned Toby McBride and Joe 4 Pavlik. Are you alleging that there were improprieties 5 that Toby McBride -- that you were made aware of, when 6 Mr. McBride was at Takeover?</p> <p>7 A I'm sorry. Restate that again.</p> <p>8 Q Sure. You talked about alleged improprieties 9 with Mike Holley, Toby McBride and Joe Pavlik. What 10 were these alleged improprieties that you were told of 11 about Toby McBride?</p> <p>12 A I believe they were all taking money. Taking 13 inordinate amounts of money from the investors from the 14 start of the business until it ended. Taking 15 exorbitant salaries. Basically, they were using the 16 checkbook -- or the company account as a personal 17 checkbook, it sounded like. I believe there's records 18 to back that up.</p> <p>19 Q Do you know who was authorized to have access 20 to the Takeover Industries' bank account from the time 21 you first signed the Convertible Note Purchase 22 Agreement, May 25, 2022, until November 8, 2022?</p> <p>23 A I do not have knowledge of who had access, no.</p> <p>24 Q Do you know who was authorized to withdrawal 25 funds from the Takeover Industries' bank account during</p>	<p>1 Q And Joe Pavlik, you spoke about Joe Pavlik. 2 Did you review any documents or have you seen any 3 documents that would indicate that Mr. Pavlik, there 4 were improprieties in how he used money of Takeover 5 Industries?</p> <p>6 A Again, I believe something was produced and I 7 believe my attorneys have it, but there's records on 8 the bookkeeping that they needed to do showing funds 9 that all three of them took.</p> <p>10 Q Are you aware that Takeover Industries had 11 audits performed to review the accounting of its books 12 in or about 2022?</p> <p>13 MR. HARVEY: Objection. Foundation. Calls 14 for speculation and assumes facts not in evidence.</p> <p>15 Go ahead.</p> <p>16 THE WITNESS: Yeah, I'm not sure about that. 17 I wouldn't be privy to that, I don't believe.</p> <p>18 BY MR. BENNION:</p> <p>19 Q You were never told that audits were conducted 20 by Takeover Industries into the assets or into the 21 expenditures and payments to Toby McBride, Joe Pavlik 22 and Mike Holley?</p> <p>23 MR. HARVEY: Same objections. Also vague and 24 compound.</p> <p>25 Go ahead.</p>
<p>Page 109</p> <p>1 that period of time?</p> <p>2 A I do not.</p> <p>3 Q Okay. Who provided you with this information 4 that you just testified to --</p> <p>5 A I believe Tucker, and I believe I provided 6 that information to my attorneys as well with whatever 7 documentation we had.</p> <p>8 Q Do you recall what that documentation is?</p> <p>9 A I don't. It's part of the records, but I 10 believe it was documenting their theft.</p> <p>11 Q And you referred to Joe Pavlik as well -- 12 well, let me go back to Mike Holley for a minute.</p> <p>13 Are you aware that Mike Holley was not able to 14 be with the company or to operate in the company for a 15 period of time in 2022?</p> <p>16 A Again, I don't remember the dates, but I do 17 believe that he was somehow axed out in some fashion.</p> <p>18 Q Are you aware that Mike Holley had COVID and 19 was hospitalized for COVID during some of that period 20 of time in 2022?</p> <p>21 A I'm not aware of anything with Mike Holley, 22 no.</p> <p>23 Q You're not aware of anything about him being 24 hospitalized for COVID?</p> <p>25 A No. No.</p>	<p>Page 111</p> <p>1 THE WITNESS: I was under the understanding 2 that was needed to be done in order to become 3 tradeable, if that makes sense. So I believe they had 4 accounting firms or something trying to get them 5 current to trade or whatnot. So I believe that's how 6 they discovered those things.</p> <p>7 BY MR. BENNION:</p> <p>8 Q Do you know if Takeover Industries filed tax 9 returns while Jason Tucker was president of Takeover 10 Industries?</p> <p>11 A I would not know that. I don't know.</p> <p>12 Q Did you ever request that information such as 13 tax returns?</p> <p>14 A We did not, no.</p> <p>15 Q Do you know how much money Takeover Industries 16 had left in its account and/or bank accounts when you 17 left the company or you issued your first Notice of 18 Default November 8, 2022?</p> <p>19 A I do not know that.</p> <p>20 Q Did you ever receive records of any Takeover 21 Industries' bank accounts?</p> <p>22 A I'm not certain. I don't believe so, but I'm 23 not sure.</p> <p>24 Q You don't recall?</p> <p>25 A I don't recall, no.</p>

James V. Deppoletto, Jr. - 12/5/2024
 James V. Deppoletto, Jr. vs. Takeover Industries, Inc., et al.

<p>1 Q If you had received information regarding the 2 status of Takeover Industries' bank accounts in 2022, 3 who would that have come from?</p> <p>4 A I would assume Tucker, but I'm not positive.</p> <p>5 Q Jason Tucker was your primary point of contact 6 at Takeover Industries?</p> <p>7 A Yes. He became a primary point of contact, 8 yes.</p> <p>9 Q Before Jason Tucker became the primary point 10 of contact with you, was somebody else at Takeover a 11 primary point of contact with you?</p> <p>12 A As far as I know, I believe he was kind of the 13 voice. When my cousin was involved early in, whatever 14 it was, 2021, and when we first got involved, he was 15 the voice that I heard, but again, I met McBride, I met 16 Pavlik, but Jason was kind of the voice, I believe.</p> <p>17 Q And your cousin is not a party to this action, 18 correct, Mr. Pettis?</p> <p>19 A He is not.</p> <p>20 Q Mr. Deppoletto, to your knowledge, have you 21 produced all email correspondence you have received 22 from Jason Tucker regarding Takeover Industries in this 23 case?</p> <p>24 A I believe so, yes.</p> <p>25 Q Do you still have access to your emails from</p>	
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Page 113

<p>1 Jason Tucker?</p> <p>2 A Whatever I had I turned over to my attorneys, 3 yes.</p> <p>4 Q But you still have access to those emails?</p> <p>5 A Yes. They're probably in my archive, sure.</p> <p>6 Q I have no further questions at this time.</p> <p>7 MR. HARVEY: No questions from me either. We 8 reserve the right to read and sign.</p> <p>9 MR. BENNION: Yes. Let's do that.</p> <p>10 MR. HARVEY: Would you like to read and sign 11 your transcript?</p> <p>12 THE WITNESS: Yes.</p> <p>13 THE COURT REPORTER: Mr. Harvey, would you 14 like a copy of the transcript?</p> <p>15 MR. HARVEY: Just electronic, please.</p> <p>16 THE COURT REPORTER: Thank you.</p> <p>17 (Deposition concluded at 2:22 p.m.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	
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Page 114

EXHIBIT H

SUBMITTED FOR
“IN CAMERA VIEW”
PURSUANT TO MOTION TO SEAL
DEF 01113 to DEF01135

EXHIBIT H

EXHIBIT I

EXHIBIT I

From: Jason Tucker
Sent: Friday, September 30, 2022 12:32:02 PM
To: James Deppoleto Jr. <jdeppoleto@quintecconveyor.com>
Subject: Quick Look - Team and Monthly Expense

Hi,

List as of now to review. It's much lighter this week.

There are additional expenses such as one-off contractors for specific services. i.e. content creation, designers, etc.

Best,

Jason

Jason Tucker
President
M: (310) 488-8017
Skype: jtucker001
Twitter: @IntelPropHQ
jason@takeoverind.com - nxtlvlusa.com - gamershots.com

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From: mike costello <mike.c@takeoverind.com>
Sent: Thursday, September 29, 2022 3:35:40 PM
To: Melissa Tucker <melissa@takeoverind.com>
Cc: Mike Tzanetatos <mike.t@takeoverind.com>; Kerby Fortner <gaming@takeoverind.com>; Jason Tucker <jason@takeoverind.com>
Subject: Re: Corp Website Update

Awesome!

Mike C.

Sent from my iPhone

On Sep 29, 2022, at 5:33 PM, Melissa Tucker <melissa@takeoverind.com> wrote:

Hi Team,

I've made some changes to Takeoverind.com. It could use a total redo - but for now, I've removed the water, added shots, and edited the About Us and Investor Relations language.

Have a great evening,

Melissa Tucker

Marketing

M: 602-300-6916

melissa@takeoverind.com - nxtvusa.com

Monthly Recurring - Core Team	
President, Director, Treasurer	Jason Tucker
Chief Operations Officer	Michael Tzanetatos
Chief Sales Officer	Michael Costello
CMO, CTO, Developer, & Online Operations	Melissa Tucker
Director of Gaming & Social Media Manager, Customer Support	Kerby Fortner
Operations Support	David Anderson
Chief Science Officer, Director	Joe Pavlik
General Counsel	Eric Bjorgum
 Monthly Average	\$ 35,291.67
 Outside Contractors	Monthly
Ten32 Media	\$ 5,500.00
LA Libations	\$ 15,000.00
Jman Marketing	\$ 2,500.00
Saverino	\$ 4,000.00
Scrubbed	\$ 4,000.00
Liquid Brand Builders	\$ 31,000.00

	Annual
	TBD
Employee	\$ 130,000.00 Taxed
Employee	\$ 110,000.00 Taxed
Contractor - Blue Butterfly Digital	\$ 90,000.00
Employee	\$ 51,500.00 Just received raise - Taxed
Contractor	\$ 24,000.00 Approximate - Contracted work (not taxed)
	TBD
Hourly (average 1-2K per month)	

Marketing Services, Email Mgt, Amazon, Walmart, additional Integration & Online Support
<https://lalibations.com/sip/>

Terminating
Broker
Bookkeeping
Canada

\$ 10,833.33

9,166.67

\$ 7,500.00

\$ 4,291.67

\$ 2,000.00

\$ 1,500.00

DEF01111

From: Amy Allen <aallen@quintecconveyor.com>
Date: Tuesday, October 25, 2022 at 2:13 PM
To: Jason Tucker <jason@takeoverind.com>
Cc: James Deppoleto Jr. <jdeppoleto@quintecconveyor.com>
Subject: RE: Accounting Items

Jason,
I look forward to speaking with you tomorrow. I am excited to hear about Takeover Industries and how I can best support James and the team. I wanted to send you a quick list of items I'd like to add to the agenda for discussion tomorrow. I know some of the background and history of Takeover industries, but very surface level. Below are assumptions that I am making based on my conversations with James, and a brief review of the financial statements and supporting documentation sent over. The below items are just discussion topics to provide clarification. As we go through this exercise there will be more items that will come up for discussion. I would appreciate it if you would share all your assessments and thoughts during your deep dive into Takeover Ind. as we work through this.

1. Who are the Key Players/Current Team Members:

- a. Jason Tucker (CFP Ventures LLC)- Active
- b. James Deppoleto-Active
- c. Joe Pavlik (Elevate Nutraceuticals)-Active?
- d. Toby McBride- (Kraze Leprechaun) Terminated
- e. Trevor Nixon-Terminated
- f. Kerby Fortner-Active
- g. Michael Costello-Active
- h. Michael Tzanetato-Active

2. Current CPA/Accountant

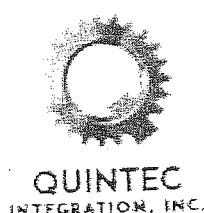
- a. Scrubbed-Accounting Outsourced
- b. Marty-CPA currently reviewing financials

3. Who has company issued Credit Cards

- a. What are the current expectations around use of company Credit Cards
 - b. What is the current approval process for expenditures
 - c. Who reconciles and posts transactions
 - d. How are travel /trade show expenses reviewed and approved
4. What processes have been implemented regarding use of Company funds?
5. Payroll
- a. How many employees on payroll- 3 (from above)
 - b. What is the payroll sched? Every other week
 - c. Who is currently responsible for running payroll and process PR tax?
6. Investments- Booked to Convertible Note Payables
- a. Are there NP's booked for all investments?

No need to get back to on these items/questions prior to our conversation tomorrow.

Thank you,



AMY ALLEN
ACCOUNTING MANAGER
AALLEN@QUINTECCONVEYOR.COM
O: 262.200.1678 |
QUINTECCONVEYOR.COM
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From: Jason Tucker <jason@takeoverind.com>
Sent: Monday, October 24, 2022 10:20 AM
To: Amy Allen <aallen@quintecconveyor.com>
Cc: James Deppoleto Jr. <jdeppoleto@quintecconveyor.com>
Subject: Re: Accounting Items

That sounds nice.

Perfect time.

Thank you, Amy.

DEF00875

Best,

Jason

Jason Tucker

President

M: (310) 488-8017

Skype: jtucker001

Twitter: @IntelPropHQ

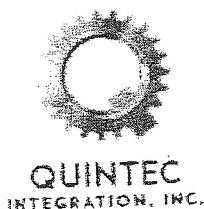
jason@takeoverind.com - nxtlvusa.com - gamershots.com

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From: Amy Allen <aallen@quintecconveyor.com>
Sent: Monday, October 24, 2022 9:26 AM
To: Jason Tucker <jason@takeoverind.com>
Cc: James Deppoleto Jr. <jdeppoleto@quintecconveyor.com>
Subject: RE: Accounting Items

Jason,
Thank you. It was a beautiful weekend to be in Northern Wisconsin. How does Wednesday 10.26.22 at 10:00 am CST work for you? If this fits with your calendar, I will send over a team's meeting invite.

I look forward to speaking with you,



AMY ALLEN
ACCOUNTING MANAGER
AALLEN@QUINTECCONVEYOR.COM
O: 262.200.1678 |
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From: Jason Tucker <jason@takeoverind.com>
Sent: Friday, October 21, 2022 10:45 AM
To: Amy Allen <aallen@quinteconveyor.com>
Cc: James Deppoleto Jr. <jdeppoleto@quinteconveyor.com>
Subject: Re: Accounting Items

Hi Amy,

By the time you read this, I hope that you had a nice weekend. Anytime Wednesday or Thursday works.
Please let me know a day and time.

Best,

Jason

Jason Tucker

President

M: (310) 488-8017
Skype: jtucker001

Twitter: @IntelPropHQ

jason@takeoverind.com - nxtvusa.com - gamershots.com

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From: Amy Allen <aallen@quinteconveyor.com>
Sent: Thursday, October 20, 2022 11:07 AM
To: Jason Tucker <jason@takeoverind.com>
Cc: James Deppoleto Jr. <jdeppoleto@quinteconveyor.com>
Subject: RE: Accounting Items

Jason,
I am only out of office tomorrow for an extended weekend. I am in the office all next week and open for meetings. Please let me know a few dates/times that you have available and we will make it work.

Thank you,

DEF00877



AMY ALLEN
ACCOUNTING MANAGER
[AALLEN@QUINTECONVEYOR.COM](mailto:aallen@quinteconveyor.com)
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From: Jason Tucker <jason@takeoverind.com>
Sent: Thursday, October 20, 2022 10:53 AM
To: Amy Allen <aallen@quinteconveyor.com>
Cc: James Deppoleto Jr. <jdeppoleto@quinteconveyor.com>
Subject: Re: Accounting Items

Amy,

That can work, anytime. Are you out all week? If not, let's do it sooner.

Best,

Jason

Jason Tucker
President

M: (310) 488-8017
Skype: jtucker001

Twitter: @IntelPropHQ

jason@takeoverind.com - nxtvusa.com - gamershots.com

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From: Amy Allen <aallen@quinteconveyor.com>
Sent: Thursday, October 20, 2022 10:43 AM
To: Jason Tucker <jason@takeoverind.com>
Cc: James Deppoleto Jr. <jdeppoleto@quinteconveyor.com>
Subject: RE: Accounting Items

Jason,
Thank you. I am out of the office tomorrow 10.21.22, but Friday 10.28.22 works well. My office hours are typically between 8:00 am-4:00 pm CST but can be flexible in the afternoon if needed. Please let me know what time works for you and I can send over a meeting invite.

Thank you,



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From: Jason Tucker <jason@takeoverind.com>
Sent: Thursday, October 20, 2022 10:18 AM
To: Amy Allen <aallen@quinteconveyor.com>
Cc: James Deppoleto Jr. <jdeppoleto@quinteconveyor.com>
Subject: Re: Accounting Items

Good Morning Amy,

It is a pleasure to e-meet you. I look forward to providing information on the landscape, going over accounting items, introducing you to our third-party bookkeeper, and working with you to properly hand off.

How does your Friday look?

Best,

Jason

Jason Tucker
President

M: (310) 488-8017
Skype: jtucker001

Twitter: @IntelPropHQ

jason@takeoverind.com - nxtvlusa.com - gamershots.com

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From: Amy Allen <aallen@quinteconveyor.com>
Sent: Thursday, October 20, 2022 8:08 AM
To: Jason Tucker <jason@takeoverind.com>
Cc: James Deppoleto Jr. <jdeppoleto@quinteconveyor.com>
Subject: Accounting items

Jason,
Good morning, James requested that I reach out to you to schedule a time to meet and discuss some accounting items. Can you please let me know your availability, today or next week, so that we can get that discussion set up?

Thank you,



AMY ALLEN
ACCOUNTING MANAGER
[AALLEN@QUINTECONVEYOR.COM](mailto:aallen@QUINTECONVEYOR.COM)
O: 262.200.1678 1
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From: Amy Allen <aallen@quintecconveyor.com>
Date: Wednesday, October 26, 2022 at 10:12 AM
To: Jason Tucker <jason@takeoverind.com>
Cc: James Deppoleto Jr. <jdeppoleto@quintecconveyor.com>
Subject: 10.26.22 Meeting Recap

Jason,
Thank you for the time this morning. It was good to put a face with a name. I am positive that we will be able to streamline the admin and accounting duties for Takeover Ind. so that you can focus on the strategic tasks. Below is the list of items that we spoke about that I will need to have access to:

QuickBooks
Bank Account(s)
Credit Card(s)
Shopify
Alalara Sales Tax
Scrubbed's QuickBooks file, if different than above.

Any other portals that will be necessary to properly function as the full functioning Accountant/Bookkeeper.

I will need Intro's to:

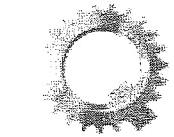
Scrubbed
Marty
TakeOver Team members? We can discuss this when/if I need to reach out to any of the team members.

Items Needed:

Employee files with contact information
Employee onboarding documentation
Employee NDA's / Non-Competes (when/if they are completed)
List of Stores/Customers
List of Vendors
List of 1099 Contractors with functions outlined
Corporate documents- NDA's collected from Suppliers, Contractors, Customers, etc.

I am sure there will be more items and information needed, but lets start here!

Thank you,



QUINTEC
INTEGRATION, INC.

AMY ALLEN
ACCOUNTING MANAGER
AALLEN@QUINTECCONVEYOR.COM
O: 262.200.1678-1
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DEF00882

EXHIBIT J

EXHIBIT J

Case 2:22-cv-00357-JJT Document 1 Filed 03/08/22 Page 1 of 14

1 LaW OFFICES
2 **MANOLIO & FIRESTONE, PLC**
3 8686 E. San Alberto Dr., Suite 200
4 Scottsdale, Arizona 85258
5 (480) 222-9100
6 vmanolio@mf-firm.com
7 Veronica L. Manolio, SBN 020230
8 *Attorneys for Plaintiff*

**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF ARIZONA**

Takeover Industries, Inc., a Nevada corporation,

Case No.

Plaintiff.

VERIFIED COMPLAINT

Michael Holley and Chirine Holley, husband and wife; David Eisenberg and Jane Doe Eisenberg, husband and wife;

Defendants.

For its claims against the Defendants, Plaintiff Takeover Industries, Inc. alleges as follows:

THE PARTIES

1. Plaintiff Takeover Industries, Inc. is a Nevada corporation with offices in Nevada and California (and its principal place of business in California).

2. Defendants Michael Holley and Chirine Holley are residents of this district and believed to reside in Cave Creek, Arizona.

3. Defendants David Eisenberg and Jane Doe Eisenberg are believed to be residents of Carmel, Indiana.

25 4. Plaintiff is informed and believes that each of the individual Defendants
26 took actions as agent, employee, and/or representative of each of the other Defendants.

1 In taking the actions alleged, each Defendant was acting within the course and scope of
2 the agency, representation, or employment relationship with knowledge, acquiescence
3 and/or ratification by each and every other Defendant for the acts taken.

4 5. To the extent that any Defendant is married, it is alleged that each actor
5 took the actions for the benefit of and on behalf of his/her martial community.

6 **JURISDICTION AND VENUE**

7 6. This Court has jurisdiction pursuant to 28 U.S.C. §1332 as the controversy
8 is between citizens of different states and the amount in controversy exceeds \$75,000.

9 7. Venue is proper in this District pursuant to 28 U.S.C. §1331 as a substantial
10 part of the events and omissions giving rise to the claims occurred in this District.
11 Moreover, Defendants each used the means and instrumentalities of interstate commerce,
12 including but not limited to: interstate telephone communications; interstate electronic
13 communications; and interstate transactions between federally insured banking
14 institution(s), all originating from within this District and/or benefitting this District.

15 **GENERAL ALLEGATIONS**

16 8. Upon information and belief, Defendant Michael Holley is a sales
17 professional specializing in the sports and nutraceutical fields.

18 9. Defendant Holley has been involved in several companies that have
19 developed or promoted sports beverages and related products. On information and belief,
20 Defendant Holley has experience in management, accounting, and corporate structuring.

21 10. In or about 2021, Defendant Holley and a colleague named Toby McBride,
22 an established beverage industry veteran, put together a company and brand based upon
23 performance water products and energy drinks. The products were to be marketed under
24 the brand NXT LVL.

25 11. Defendant Holley and Mr. McBride incorporated in Nevada as Takeover
26 Industries, Inc. ("Takeover") but wished to operate as a publicly-traded company.

1 12. Defendant Holley was instrumental in a deal where Labor Smart , Inc., a
2 publicly-traded entity, trading on the OTC Markets under the symbol LTNC, acquired
3 Takeover, and Takeover became a wholly-owned subsidiary of Labor Smart.

4 13. After the acquisition of Takeover by Labor Smart, Defendant Holley was
5 named a Director of Labor Smart and became the Chief Operating Officer and Treasurer
6 of Takeover, while also sitting on the Board of Directors of Takeover.

7 14. Defendant Holley and Mr. McBride worked with a well-known fitness and
8 nutrition advocate, Joseph Pavlik, who was also an Officer and on the Board Takeover
9 and an Officer of Labor Smart.

10 15. Defendant Holley, along with Mr. Pavlik and Mr. McBride, quickly put
11 together a brand that developed an industry buzz. The flagship products were “NXT
12 LVL” hydrogen-infused water and an energy shot developed by Mr. Pavlik.

13 16. Takeover began to work with Jason Tucker, a branding and business
14 consultant with expertise in licensing, leveraging intellectual property, Internet sales,
15 marketing, and finance. Mr. Tucker saw the potential of Takeover and put his efforts into
16 moving the company forward on all fronts.

17 17. Takeover offered Mr. Tucker an ownership/shareholder interest in the
18 company as payment for his services. By June 10, 2021, the Directors of Takeover held a
19 “Special Meeting” and resolved that:

- 20 a. The Company would have four Directors: Defendant Holley, Messrs.
21 Tucker and Pavlik, and a gentleman named Toby McBride;
- 22 b. Mr. Tucker would be appointed as the President of the Company, while
23 Defendant Holley would remain its Treasurer and be appointed as both the
24 Chief Operating Officer and Chief Financial Officer;
- 25 c. Mr. McBride would act as the Company’s Chief Executive Officer and
26 Secretary; and
- 26 d. The parties would cooperate to fulfill all paperwork requirements necessary
27 to complete these elections and appointments.

1 18. Under this arrangement, Takeover has become remarkably successful. The
2 company immediately secured an endorsement deal with boxing legend Manny Pacquiao
3 and his Manny Pacquiao Foundation and has since secured endorsement deals with
4 Grammy Award-winning artist and professional gamer “T-Pain,” and other notables
5 including MMA Champions, NFL players, and various celebrities.

6 19. Takeover’s online store is active. The NXT LVL beverage product line
7 (which includes hydrogen-infused water products and 2 oz. “Gamer Shots” that have
8 proven to be very popular and, at times, sold out), are among the highest rated beverage
9 products for their respective categories on Amazon.com, and the Takeover online store
10 continues to generate substantial sales with little advertising.

11 20. Takeover has also:

- 12 a. Secured retail commitments to place its products on the shelves of over
13 10,000 stores in 2022;
- 14 b. Entered into exclusive manufacturing deals to source its products; and
- 15 c. Entered into substantial endorsement deals to promote its products,
16 including the “Official Water of the Professional Fighters League” (PFL).

17 21. Takeover has retained experts in beverage sales, marketing, and an
18 established public relations firm to further promote the NXT LVL products.

19 22. Defendant Holley hired Defendant David Eisenberg to assist with
20 accounting/bookkeeping functions during the company’s growth.

21 23. Although Takeover had only begun in or about February 2021, by the time
22 it attended the National Advancing Convenience Store (“NACS”) industry trade show in
23 October 2021, Takeover’s NXT LVL Hydrogen Water was awarded the CSP Best New
24 Beverage Product (beating Smartwater+, a Coca-Cola® product, and other brands).

25 24. As Takeover was skyrocketing, the four principals unanimously agreed that
26 they would not distribute profits to any of them unless distributions were made evenly
and with unanimous consent. The goal was to continue growing Takeover and its brands.

1 25. At the same time, Takeover was updating the books and accounting of its
2 parent company, Labor Smart. Labor Smart had been subjected to speculation among
3 OTC “day traders” who often buy and sell large volumes of penny stocks in short periods
4 of time because of the spike/growth in Takeover, which obviously affected Labor Smart’s
5 pricing and value.

6 26. Despite efforts to bring the Labor Smart books current, it became apparent
7 that Takeover would need to “spin off” from Labor Smart and operate under its own
8 stock ticker. Mr. Tucker began to oversee the spinoff process, and he (for Takeover)
9 retained the services of third-party Accounting and Legal professionals who specialized
10 in this type of business transaction.

11 27. In September and October 2021, vendors began expressing frustrations to
12 Mr. Tucker (and others) about Takeover’s late payment(s) or non-payments of
13 outstanding invoices/commitments.

14 28. By October 2021, Defendant Holley became ill and was hospitalized.

15 29. Officers/Directors Tucker and McBride requested that Defendant Holley
16 provide access to the Takeover bank account(s) so that the bills could be paid/outstanding
17 issues could be resolved.

18 30. Defendant Holley was the only Takeover officer/director with access to the
19 bank account(s); Defendant Eisenberg could view the accounts/statements, but only
20 Defendant Holley could manage the funds and/or access the monies. Nonetheless,
21 Defendant Holley denied any other Takeover officers/directors to have direct access.

22 31. Defendant Holley instructed Defendant Eisenberg to “share information”
23 with the others but not to grant access or control, despite Defendant Holley’s
24 hospitalization and incapacity.

25 32. Mr. Tucker requested .pdf copies of all bank records, which Mr. Tucker
26 then provided to the companies’ outside Accountant for review.

1 33. The records revealed that Defendant Holley had been making significant
2 distributions to himself without any authorization, and Defendant Holley had apparently
3 "hired" his own daughter (Courtney Holley) and was paying her from Takeover funds.

4 34. Mr. Tucker reported the initial findings and then engaged General Counsel
5 and the Accountant to conduct further review. This review revealed:

- 6 a. Defendant Holley authorized over \$750,000 in distributions without
7 obtaining Board Approval. Some of those distributions *may* have
8 been acceptable, but they were done clandestinely and with less than
9 full Board Approval;
- 10 b. Distributions were not made evenly, as the owners had agreed;
- 11 c. Defendant Holley distributed \$51,500 to One Elite Sports, LLC, an
12 entity that is controlled/owned by Defendant Holley;
- 13 d. Defendant Holley (and/or Eisenberg) failed to enter certain
14 debts/income into the accounting records;
- 15 e. Third parties were paid without any invoices or documentation;
- 16 f. Vendors and third-party sponsorship partners were not paid; and
- 17 g. Distributions authorized by Holley were not properly taxed or
18 reported for tax accounting purposes.

19 35. Takeover hired an outside law firm to conduct an independent investigation
20 and learned that Defendant Holley had committed several tortious acts and that
21 Defendant Eisenberg either aided and abetted or facilitated these wrongs by failure to
22 report known issues to the company.

23 36. In December, the Board of Directors conducted a "Special Meeting" and
24 voted to: a) remove Defendant Holley from the Board of Directors; and, b) direct
25 Takeover's President (Mr. Tucker) to remove Defendant Holley from the bank account(s)
26 and gain access to the accounts.

27 37. Once Defendant Holley was removed, Takeover's "full access" to the
28 records showed additional discrepancies and misdealing, including:

1 a. Defendant Holley had charged tens of thousands of dollars in
2 personal expenses to Takeover, even after the hospitalization (and up
3 until December 2021); and

4 b. Defendant Holley had been allowing his family to make personal
5 purchases through Takeover even while he was hospitalized.

6 38. On December 22, 2021, outside legal counsel for Takeover made demand
7 to Holley for repayment of improper amounts and disposition of his stock.

8 39. Takeover also demanded that Defendant Holley return all of the passwords
9 and login information he had in his possession, which gave him access and control to
10 Takeover's banking, its online presence (through domains and purchasing websites), and
its emails and shared documents/drives.

11 40. To date, Defendant Holley has refused to return the company passwords or
12 credentials, essentially holding the company "hostage."

13 41. Takeover filed suit against Defendant Holley in the U.S. District Court,
14 Central District of California, Western Division on or about January 5, 2021.

15 42. Takeover also sought injunctive relief in the California matter, arguing that
16 the Company should be granted access to the Company's domain/key accounts to
17 preserve operations of the entity.

18 43. In response, Defendant Holley:

19 a. Moved to dismiss the California case, arguing that jurisdiction was
20 proper here, in the United States District Court in and for Arizona;

21 b. Argued that injunctive relief was inappropriate because he did not
22 intend to harm the Takeover entity in the future;

23 c. Argued that all of his clandestine activity was justified because he
24 and another Board Member (Mr. McBride) agreed to make
distributions without regard to the other officers/directors; and

25 d. Disputed the Board's removal action of him solely based on
26 improper notice.

1 44. Despite the pending action in California, and while that matter was
2 pending, Plaintiff further learned that:

- 3 a. Defendant Holley (or someone at his direction) has caused the
4 Takeover email/Microsoft Outlook administrator passwords to be
5 changed – making employees/contractors unable to access or make
6 changes to certain company email accounts;
- 7 b. Defendant Holley has continued paying personal expenses on his
8 company credit card, including a personal storage unit in Cave
9 Creek, Arizona;
- 10 c. Defendant Holley has continued to receive funds/checks paid to the
11 Company through a mail location/Post Office Box in Cave Creek,
12 Arizona. Defendant Holley has failed to deliver those checks or
13 otherwise “post” the funds to the Company’s books;
- 14 d. Third parties continue to send billing statements/invoices to
15 Defendant Holley and/or other email addresses within the Company,
16 which Plaintiff cannot access (and which causes financial damages
17 to Plaintiff, including past due and delinquency charges); and
- 18 e. Defendant Holley (or someone acting at his direction) has caused the
19 GoDaddy.com account password to be changed - making employees/
20 contractors unable to make certain changes to Company-owned
21 domains, including www.takeoverind.com, www.nxtlvlusa.com, and
www.nxtlvlglobal.com.

22 45. Plaintiff has now voluntarily dismissed the California lawsuit and re-filed
23 here to avoid any potential argument on personal jurisdiction. This is done in the interest
24 of efficiency and for the benefit of the Company.

25 46. It should be noted that Takeover (through its corporate legal counsel) made
26 a written demand on Defendant Holley on or about December 22, 2021, seeking
repayment of a portion of the funds improperly taken from the company. Takeover also
demanded Holley return all passwords and login information that he had in possession,
allowing the Company to continue performing without interruption. Defendant Holley
failed to respond and continually delayed until a lawsuit was filed.

1. 47. On or about January 7, 2022, Takeover again requested that Defendant
2 Holley at least provide/return the Company's login credentials for www.GoDaddy.com
3 and Microsoft Office account to ensure proper access to the Company domain/accounts.
4 Defendant Holley still refuses to provide equal access.

5. 48. These acts and omissions have caused Takeover significant financial
6 damages and threaten likely further irreparable harm if the matter is not quickly decided.

7. **COUNT I**
8. **Breach of Fiduciary Duties**
9. **Against Defendants Holley**

10. 49. Plaintiff incorporates the foregoing paragraphs as if repeated here verbatim.

11. 50. As a Director and Officer of Takeover, Defendant Holley owed fiduciary
12 duties to the Company, his fellow Officers/Directors and the Shareholders to (at least) act
13 in good faith in the best interest of the Company, putting aside his own personal gain.

14. 51. By taking the acts described above, Defendant Holley has breached his
15 fiduciary duties by, at least: engaging in intentional misconduct and knowing violations
16 of law; placing his personal interests ahead of the Company, his fellow Officers/
17 Directors, and/or the Company's shareholders; refusing to cooperate in protecting the
18 interest of the Company during independent investigations of misconduct; and, placing
19 the Company/its Shareholders in danger by ignoring the very obvious debts to be paid.

20. 52. Defendant Holley made his wrongdoing apparent and further actionable by
21 trying to "hide" behind a technical argument that he was permitted to make personal
22 distributions to himself (intentionally withheld from other Officers/Directors) by only
23 seeking cooperation and involvement from one of four Officers/Directors.

24. 53. Defendant Holley committed such egregious acts that he could not be
25 excused by the "Business Judgment Rule" or any similar rule of construction that would
26 allow him to take such actions.

1 54. Defendant Holley's actions have caused damages to the Company, its
2 shareholders, and the other Officers/Directors in an amount to be proven at trial but, in no
3 event, less than the \$75,000 amount necessary to establish diversity jurisdiction.

4 55. In addition, and because of the intentional nature of this claim, Defendant
5 Holley may be liable for punitive or exemplary damages and/or subject to disgorgement
6 of his shareholder, officer and director positions.

COUNT II Conversion

Against Defendants Holley

11 56. Plaintiff repeats, re-alleges, and incorporates the foregoing paragraphs as if
12 repeated here verbatim.

13 57. As the Chief Financial Officer, Treasurer and Chief Operating Officer of
14 the Takeover, Defendant Holley was granted access to all finances/accounts/funds of the
15 Company.

16 58. By committing the acts described above, Defendant Holley wrongfully
17 exerted control and dominion over Company property (funds) inconsistent with his rights
18 and deprived the Company, the other Officers/Directors, and/or the Shareholders of their
19 rights, properties, and/or monies.

20 59. Defendant Holley's acts cannot be excused by care, good faith, or lack of
21 knowledge, as he has already submitted sworn testimony (a Declaration under oath)
22 stating that he and another Board Member acted in direct violation of a known Resolution
23 of the Board of Directors of the Company. Defendant Holley has testified that a
24 "technical" variation in the documentation led him to act without authority and to
25 knowingly take funds that were not otherwise authorized or permitted to be taken.

1 60. Defendant Holley's actions since the time the California lawsuit was filed
2 cannot be excused or considered good faith or lack of knowledge because he has
3 intentionally kept himself solely in charge of the Company's domains/emails/post office
4 box. While intentionally failing to allow others' access, Defendant Holley has permitted
5 certain Company debt to remain unpaid and has withheld Company payments received.

6 61. Defendant Holley's actions have caused damages to the Company, its
7 shareholders, and the other Officers/Directors in an amount to be proven at trial but, in no
8 event, less than the \$75,000 amount necessary to establish diversity jurisdiction.

9 62. Even if Defendant Holley were to return the wrongfully-obtained property
10 or otherwise repay his theft/conversion, the return of money would not nullify his acts.

11 63. In addition, and because of the intentional nature of this claim, Defendant
12 Holley may be liable for punitive or exemplary damages and/or subject to disgorgement
13 of his shareholder, officer and director positions.

COUNT III

Unjust Enrichment

Against Defendants Holley

17 64. Plaintiff repeats, re-alleges, and incorporates the foregoing paragraphs as if
18 repeated here verbatim.
19

19
20 65. Defendant Holley received benefits, both financial and intangible, from
21 Plaintiff and Plaintiff's work. Defendant Holley has retained benefit(s) far in excess of
22 what was expected that he would receive or be compensated, and it would be inequitable
23 for Defendant Holley to retain the full value of the benefits he took/received.

23 66. Even if no other claim is proved, Plaintiff may recover on a *quantum meruit*
24 basis for the value of the benefits/monies that Defendant Holley has inequitably retained.
25

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1 67. Plaintiff will prove the amount of damage (or *quantum meruit* recovery) at
2 trial, but the amount should, in no event, be less than the statutory minimum for diversity
3 jurisdiction in this forum.

COUNT IV
Aiding and Abetting Tortious Misconduct
Against Defendants Eisenberg

7 68. Plaintiff repeats, re-alleges, and incorporates the foregoing paragraphs as if
8 repeated here verbatim.

9 69. As described above, Defendant David Eisenberg knew of the relationship
10 between Defendant Holley and the Company/Shareholders as well as Defendant Holley
11 and the other Officers/Directors.

12 70. Defendant Eisenberg was specifically made aware that Defendant Holley
13 was failing to provide relevant bookkeeping information/data for recordkeeping, and
14 Defendant Eisenberg was given specific examples of items (debts) to be added to the
15 books and payments (including distributions) that should not have been made.

16 71. Defendant Eisenberg knowingly participated in further breach(es) by
17 Defendants Holley and/or continued to commit wrongdoing/erroneous bookkeeping
18 despite the breaches, and with knowledge, participation, and/or encouragement to
19 Defendant Holley of the wrongdoing.

20 72. Defendant Eisenberg's actions have further caused damages to the
21 Company, its shareholders, and the other Officers/Directors in an amount to be proven at
22 trial but, in no event, less than the \$75,000 amount necessary to establish diversity
23 jurisdiction.

PRAYER FOR RELIEF

25 WHEREFORE, Plaintiff Takeover Industries, Inc. having stated its claims, hereby
26 prays for Judgment as follows:

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- 1 A. For judgment against the Defendants, and each of them;

2 B. For compensatory, consequential, incidental, and/or equitable damages

3 (including, but not limited to, a disgorgement of benefits under an unjust enrichment

4 theory or *quantum meruit* measure of damages) in amounts to be proven at trial (but in no

5 event less than the statutory minimum for diversity jurisdiction);

6 C. For exemplary or punitive damages as deemed appropriate;

7 D. For attorneys' fees and costs incurred herein; and

8 E. For all further relief that the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby respectfully demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

DATED this 7th day of March, 2022.

MANOLIO & FIRESTONE, PLC

By: /s/ Veronica L. Manolio
Veronica L. Manolio
8686 E. San Alberto Dr., Suite 200
Scottsdale, Arizona 85258
Attorneys for Plaintiff

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VERIFICATION

By signing below, the undersigned verifies under oath and acknowledging the penalties of perjury:

I am Jason Tucker, President of Takeover Industries, Inc., and of legal age and competency to testify in Court. I have read the foregoing Complaint dated this 7th day of March, 2022, drafted on behalf of Takeover (Plaintiff). I have also read and granted authority for the previous pleadings (filed in California) and have endeavored to “update” all factual allegations of the Plaintiff as they exist today. I stand ready to testify in Court and would testify consistently with this Verification and the pleadings.

I can hereby verify that all matters stated in this Complaint and the request(s) for expedited and injunctive relief are true and correct, upon my information and belief, and I will continue to verify facts and/or update legal counsel on behalf of the Plaintiff.

I declare these statements to be true and correct and made under the penalty of perjury.

17 Executed on this 7th day of March, 2022.

/s/ Jason Tucker ¹
Jason Tucker

²⁴ ²⁵ ²⁶ ¹ This electronic signature is meant to comply with Arizona Rules and/or the Federal
Rules that permit such electronic signatures in this Court. Declarant Jason Tucker
remains available and ready to testify consistently with this verification/execution.

EXHIBIT K

EXHIBIT K

Case 2:22-cv-02013-GMN-BNW Document 102-4 Filed 01/10/25 Page 2 of 79
Joseph F. Pavlik
August 20, 2024

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JAMES DEPOLETO,

Plaintiff,

vs.

Case No. 2:22-cv-02013

TAKEOVER INDUSTRIES
INCORPORATED, et al.

Defendants.

Joseph F. Pavlik
August 20, 2024

VIRTUAL REMOTE VIDEO-RECORDED

DEPOSITION OF JOSEPH F. PAVLIK

TUESDAY, AUGUST 20, 2024

LAS VEGAS, NEVADA

Reported by: KENDALL KING-HEATH, NV CCR No. 475
CA. CSR No. 11861

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 Joseph F. Pavlik
 August 20, 2024

	Page 2	Page 3
1	UNITED STATES DISTRICT COURT	1 ZOOM/TELECONFERENCE APPEARANCE:
2	DISTRICT OF NEVADA	2 For the Plaintiff:
3		3 PATRICK HARVEY, ESQ.
4	JAMES DEPOOLETO,	4 HUSCH BLACKWELL
5	Plaintiff,	5 511 North Broadway
6	vs. Case No. 2:22-cv-02013	6 Suite 1100
7	TAKEOVER INDUSTRIES	7 Milwaukee, WI 53202
8	INCORPORATED, et al.	8 (414) 273-2100
9	Defendants.	9 patrick.harvey@buschblackwell.com
10	/	10
11		11 For the Defendants:
12		12 DAVID SEXTON, ESQ.
13	VIRTUAL REMOTE VIDEO-RECORDED DEPOSITION	13 HALL & EVANS
14	of JOSEPH F. PAVLIK, taken on behalf of	14 1160 North Town Center Drive
15	Plaintiff, commencing on Tuesday, August	15 Suite 330
16	20, 2024, at 1:02 p.m. The witness	16 Las Vegas, NV 89144
17	appeared remotely from Las Vegas,	17 sextond@hallevans.com
18	Nevada, taken before Kendall King-Heath,	18
19	Certified Court Reporter, No. 475, for	19
20	the State of Nevada, No. 11861, for the	20
21	State of California.	21
22		22
23		23
24		24
25		25
	Page 4	Page 5
1	INDEX	1 TUESDAY, AUGUST 20, 2024
2		2 1:02 p.m.
3	EXAMINATION	3 -00-
4		4 THE VIDEOGRAPHER: We are now on the
5	WITNESS	5 record at 1:02 p.m. Pacific Daylight Time on
6	JOSEPH F. PAVLIK	6 Tuesday, August 20th, 2024. Audio and video
7	By Mr. Harvey	7 recording will continue to take place until a
8		8 parties agree to go off the record. Please note
9	EXHIBITS	9 that the microphones are sensitive and may pick
10		10 up whispering and private conversations.
11	(None Marked.)	11 For the purpose of creating a
12		12 witness-only video recording, the witness is
13		13 being spotlighted or locked on all video screens
14		14 while in speaker view. We ask that the witness
15		15 not remove the spotlight setting during the
16		16 deposition, as it may cause other participants to
17		17 appear on the final video rather than just the
18		18 witness. For anyone who doesn't want the
19		19 witness' video to take up the large part of your
20		20 screen, you may click the gallery view button in
21		21 the upper right corner of remote depo interface.
22		22 This is the video-recorded proceeding
23		23 of Joseph Pavlik taken by counsel for the
24		24 Plaintiff in the matter of James V. Deppoleto,
25		25 Jr., versus Takeover Industries, Incorporated.

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 Joseph F. Pavlik
 August 20, 2024

Page 6		Page 7
1	My name is Mary Kate Metzger, remote	1 Q Middle name?
2	videographer on behalf of U.S. Legal Support. I	2 A Francis.
3	am not related to any party in this action, nor	3 Q With an "I"?
4	am I financially interested in the outcome. The	4 A F-r-a-n-c-i-s; correct.
5	court reporter is Kendall Heath on behalf of U.S.	5 Q And what's your address, sir?
6	Legal Support.	6 A Currently I am at 17047 Racoon Trail in
7	Counsel, could you please state your	7 Strongsville, Ohio.
8	appearances for the record, after which the court	8 Q Any plans to move in the next couple of
9	reporter will swear in the witness.	9 months?
10	MR. HARVEY: Patrick Harvey for the	10 A I would like to.
11	Plaintiff.	11 Q And are you going to stay in Ohio or
12	MR. SEXTON: David Sexton for	12 some other state?
13	Defendants.	13 A Depends what I can afford. I've been
14	(Witness sworn.)	14 working without pay. So I'm -- this whole deal's
15	Thereupon,	15 kind of disrupted my life, so I'm just trying to
16	JOSEPH F. PAVLIK,	16 get through it.
17	called as a witness by the Plaintiff	17 Q Can you walk me through your education,
18	having been duly sworn, testified as	18 just high school on?
19	follows:	19 A Yeah. High school. Do you want to
20	EXAMINATION	20 know the institutions or --
21	BY MR. HARVEY:	21 Q Yes, please.
22	Q Could you state and spell your full	22 A Went to Cleveland Saint Ignatius.
23	name for us, please.	23 Mount Union college, Baldwin Wallace college,
24	A Joseph Pavlik. J-o-s-e-p-h,	24 Kent State and focused on exercise physiology,
25	P-a-v-l-i-k.	25 nutrition science, business and marketing.
Page 8		Page 9
1	Q You said you went to Kent State. Did	1 A That was in maybe April of 2021, when
2	you get a degree from there?	2 the Takeover company was launched. It was done
3	A Did not get a final degree. Pursued	3 by the SEC to confirm that it actually was a real
4	master's studies.	4 company.
5	Q And what were the other colleges you	5 Q So an SEC lawyer was the one asking you
6	mentioned?	6 questions?
7	A Mount Union college and Baldwin Wallace	7 A That's correct. I don't know -- I'm
8	college.	8 not sure if it was a lawyer, but it was someone
9	Q Did you get degrees from Mount Union?	9 from the SEC. And it was -- after it was done,
10	A Baldwin Wallace. I transferred for my	10 it was written off because it proved that we did
11	undergrad.	11 have a company.
12	Q Bachelor of science?	12 At the time, it was -- you know,
13	A Yes.	13 this -- the Twitter world sort of had some things
14	Q In what?	14 going on out there that we had to substantiate
15	A Business and exercise science.	15 that the company was real, which we did.
16	Q Any degrees other than the one from	16 Q Was there a formal lawsuit that was
17	Baldwin Wallace that you have?	17 instigated by the SEC that you're aware of?
18	A No.	18 A No.
19	Q Any other education other than what you	19 Q Was there a formal SEC investigation?
20	just told me?	20 A I believe it was maybe an informal
21	A Formally, no.	21 investigation, but I'm not sure what the exact
22	Q Okay. Have you ever had your	22 title was. They just wanted to ask a few
23	deposition taken before?	23 questions, that they did to a few people within
24	A Once before.	24 the company. And --
25	Q And what was the context for that?	25 Q Who else -- I'm sorry. Go ahead. Who

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 Joseph F. Pavlik
 August 20, 2024

	Page 10	Page 11
1	else did the SEC interview?	
2	A I think just Toby McBride.	1 skip past it, but I will --
3	Q Was your interview or deposition, was	2 Q Okay.
4	it recorded, to your knowledge?	3 A -- say that I did have a neck -- a
5	A I believe it was.	4 cervical epidural in my neck last Friday, which
6	Q Was it in person or was it via video?	5 I've been having some side effects from that. So
7	A It was video.	6 I've just been feeling off, but I didn't want to
8	Q Was it similar to what we're doing	7 cancel the deposition, so I'm going to do my best
9	here, where you were in one location and they	8 to complete it.
10	were in a totally different location?	9 Q Are you unable to answer questions
11	A Yes.	10 truthfully today because of that condition or any
12	Q Okay. Other than that, have you been	11 other condition?
13	deposed at all?	12 A I'm sorry, could you repeat that?
14	A No, sir.	13 Q Because of the medical condition that
15	Q Ever given trial testimony?	14 you just mentioned or any other medical
16	A No, sir.	15 condition, is there a reason that you can't
17	Q And I assume you had a chance to speak	16 answer fully and truthfully today?
18	with your lawyer. I don't want to go into the	17 A Of course not, no. I was just making
19	substance of it, other just want to confirm he	18 that statement because I've been feeling a little
20	had a chance to go over the deposition rules,	19 off and I might not be at the full speed that I
21	things like make sure you answer out loud and	20 would normally speak at. That's all, sir.
22	things of that nature.	21 Q Okay. I'm not going to go over all the
23	Do I need to go over those again or can	22 deposition rules since you had a chance to go
24	we skip past that?	23 over them with your counsel. The only one I am
25	A Yes, sir. We discussed that. We can	24 going to reiterate is, if you don't understand
		25 any of my questions today, feel free to let me
	Page 12	Page 13
1	know. I'm happy to rephrase them to make sure	1 A No.
2	that we're on the same page before you give any	2 Q None of the other Defendants?
3	answers; okay?	3 A Correct.
4	A Okay.	4 Q Can you walk me through your employment
5	Q By the same token, though, if you	5 history for the last 10 years, please.
6	answer one of my questions, I'm going to assume	6 A I've been self-employed through my
7	that you understood; it that fair?	7 company, which is Flexus, LLC.
8	A Okay.	8 Q Can you spell that?
9	Q Okay. Did you review any documents to	9 A F-l-e-x-u-s, LLC.
10	prepare for your deposition today?	10 Q Okay. For that entire 10 years?
11	A Just a few of the documents that were	11 A Yes, sir.
12	submitted prior that were completed.	12 Q What type of company is Flexus, LLC?
13	Q And what documents were those?	13 A It's a consulting company.
14	A Just the questions and answers from the	14 Q Consulting with respect to what?
15	last round of questions that was asked to us from	15 A To the health and fitness industry.
16	you guys, I believe.	16 Q How long have you owned that company?
17	Q You're referring to interrogatory	17 A Since 2005.
18	questions and written answers to those	18 Q Are you the sole owner?
19	interrogatory questions?	19 A Sole owner.
20	A Yes.	20 Q And what state is that incorporated
21	Q Okay. Other than those, did review any	21 in?
22	other documents?	22 A Ohio.
23	A No.	23 Q How many employees do you have now?
24	Q Other than your lawyer, did you speak	24 A Just myself.
25	to anyone else about your deposition today?	25 Q Has that been the case since 2005?

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1	A Correct.	1 A I believe it's two words.
2	Q Okay. So you've been self-employed	2 Q When did you first start working for
3	since 2005, through Flexus, LLC.	3 Takeover?
4	What other employment have you had in	4 A I would probably say January of --
5	the last 10 years?	5 well, I was never really working for them. I was
6	A No real direct employment. I'm	6 just contracted. I'd say January 2021 --
7	primarily -- I'm usually contracted for different	7 Q And when you say "contracted," what --
8	types of work, sometimes sales marketing	8 what specifically was the arrangement?
9	formulations, but no direct employment.	9 A Well, I provided work to the company.
10	Q And when you say "contracted," are they	10 So I wasn't really an employee. I was just, I
11	contracting with Flexus, LLC, or are they	11 guess, a -- sort of an 1099 consultant.
12	contracting with you directly?	12 Q Were you billing by the hour or how
13	A With either -- usually with me directly	13 were you getting paid?
14	or with Flexus. I mean, it's one and the same.	14 A Nope. I was -- usually, it'd be a
15	Q And how many companies approximately	15 monthly stipend.
16	have you contracted with in the last 10 years?	16 Q And say a little more about that. What
17	A Oh, maybe half a dozen or so. Tough to	17 would the monthly stipend consist of?
18	say.	18 A Anywhere from usually \$5,000 a month up
19	Q How about in the last four?	19 to \$10,000 a month.
20	A Maybe one or two.	20 Q Depending on what?
21	Q Which companies were those?	21 A Depending on the scope of work.
22	A Takeover and LOCK'DIN or Next Gen	22 Q Did you keep time sheets or anything
23	Beverage.	23 like that to keep track of the scope of work?
24	Q And Next Gen's all one word; correct?	24 A No. I don't do that type of work with
25	N-e-x-t, capital G, e-n, all one word?	25 time sheets.
	Page 16	Page 17
1	Q So how did you keep track of the scope	1 Q And you said in order to get the
2	of your work?	2 stipend, you were creating formulas, creating IP
3	A Well, the scope of my work primarily	3 and doing education with regard to sales and
4	consists of creating formulas, intellectual	4 marketing; is that right?
5	property and then assisting with education, sales	5 A For the most part.
6	distribution, kind of -- pretty much everything	6 Q What else did you do?
7	that would be required to help a company get	7 A No, that pretty much encompassed it. I
8	started in marketing and sell a product.	8 mean, I'd do whatever it takes, like anything
9	Q Who decided how much you were going to	9 with a start-up company.
10	get paid per month?	10 Q And then you said you also either
11	A At the time, we collectively decided to	11 worked for or contracted -- or were contracted by
12	each take \$5,000 a month back in January of 2021,	12 Next Gen Beverages; is that correct?
13	I believe.	13 A You were breaking up. Could you repeat
14	Q Who is the "we" in that sentence?	14 that?
15	A Toby McBride and Mike Holley.	15 Q Yeah. You said you were also either
16	Q Was there some sort of formal	16 employed by or contracted by Next Gen Beverages;
17	resolution that said we're going to each take	17 correct?
18	\$5,000 per month?	18 A I'm sorry, you're still breaking up.
19	A I can't recall if there was a formal	19 Q You said you were also employed by or
20	resolution.	20 contracted by Next Gen Beverages; correct?
21	Q But you said sometimes you got paid	21 You seem to have -- you were frozen
22	10,000 a month; correct?	22 there for a second. Are you able to hear us now?
23	A Further down the road, once the company	23 Mr. Pavlik?
24	was up and moving. But, again, that was all	24 MR. HARVEY: Is anyone else able to
25	prior to any of the matters at hand.	25 hear me?

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1 MR. SEXTON: I can hear you.	1 of the parties --
2 THE REPORTER: I can hear you fine."	2 MR. ZARRO: Hey, everybody.
3 MR. HARVEY: He looked like he was	3 MR. HARVEY: Tom who?
4 frozen on my screen. I don't know --	4 MR. ZARRO: Tom Zarro.
5 THE WITNESS: All right. Now I can	5 MR. HARVEY: Okay.
6 hear you.	6 BY MR. HARVEY:
7 MR. HARVEY: Okay. Are we all set now?	7 Q All right. So I was asking you,
8 All right. He looks like frozen	8 Mr. Pavlik, you said you also were employed by or
9 again.	9 contracted by Next Gen Beverages; correct?
10 THE VIDEOGRAPHER: Counsel, it appears	10 A That's correct.
11 our witness is having internet issues.	11 Q And when did that -- were you employed
12 THE WITNESS: Now I can -- can you hear	12 by or were you contracted by Next Gen
13 me now?	13 Beverages?
14 MR. HARVEY: I can now.	14 A It was really a volunteer position. I
15 THE WITNESS: Okay.	15 don't even -- so there was really -- everybody
16 MR. HARVEY: All right. Are we all	16 worked as volunteers, so there was really no --
17 set?	17 nothing official.
18 THE WITNESS: Yeah -- now I can hear	18 Q Did you receive any compensation from
19 you.	19 Next Gen Beverages?
20 MR. HARVEY: Okay. And for the record,	20 A I did receive compensation in shares.
21 do we have somebody else on? It looks like we've	21 Q How much compensation did you
22 got another person.	22 receive?
23 MR. SEXTON: I believe we have --	23 A 300 million shares.
24 MR. ZARRO: Tom's here. Tom's here.	24 Q When did you receive those?
25 MR. SEXTON: Mike Holley and Tom, two	25 A June of 2023.
Page 20	Page 21
1 Q And when you say "Next Gen Beverages,"	1 products, new formulas, new IP for Next Gen
2 is that the Next Gen Beverages that's the	2 Beverages after Takeover was left for dead; is
3 defendant in this lawsuit, which is Next Gen	3 that correct?
4 Beverages, LLC, or is it a different Next Gen	4 A That's correct.
5 Beverages?	5 Q And when was Takeover left for dead?
6 A I'm assuming that's the same one.	6 A After -- I would probably say October
7 Q And how did you go about receiving	7 of 2022, after the series of events between
8 these shares?	8 Mr. Deppoleto and Justin Tucker, the company was
9 A Could you explain? I'm not quite sure.	9 left with nothing but lawsuits. So that's why
10 How do -- how did I receive them?	10 the company was left for dead. It was set up to
11 Q Yeah. What led you to getting these	11 fail.
12 shares from Next Gen Beverages? What was the	12 Q And who set it up to fail?
13 series of --	13 A Mr. Deppoleto and Jason Tucker.
14 A Oh.	14 Q And what do you mean by they set it up
15 Q -- events that led to you getting	15 to fail?
16 them?	16 A Well, investments were made, to my
17 A It was for all of -- again, going back	17 understanding, and I -- again, I wasn't involved
18 to what I do, it was for the new creation and	18 in all the financial dealings. However,
19 development and formulation of all of the new	19 initially, an investment was made. There was a
20 products for the new company after the other	20 commitment made. It wasn't followed through.
21 former company was left for dead.	21 And then after that, I was, you know, pretty much
22 Q So you said a lot there. Let me try	22 not involved in any of the correspondence with
23 and unpack it.	23 the additional investments, but I do know that
24 So you received 300 million shares in	24 the primary factor of their decision to, you
25 Next Gen Beverages because you created new	25 know, do a deal with Dollar General, which was

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<p>1 advised against, was, you know, the primary 2 reason for what we're talking about today, I 3 believe with that investment. And that was a 4 decision that was made by Mr. Deppoleto, acting 5 as a director, Justin Tucker, which, you know, I 6 had no real involvement with other than saying 7 that it was not a good deal, and then that's what 8 essentially led to the demise of the company.</p> <p>9 Q So you said a lot there. Let me unpack 10 it a little bit.</p> <p>11 So, initially, you said that there were 12 investments that were made. What did you mean by 13 that? Mr. Deppoleto's investments?</p> <p>14 A Correct.</p> <p>15 Q So you were aware Mr. Deppoleto made 16 investments into Takeover; correct?</p> <p>17 A I was aware of the first investment.</p> <p>18 Q And how much was that investment for?</p> <p>19 A I'm not sure. May have been around 20 500,000.</p> <p>21 Q And when was that?</p> <p>22 A I'd probably say May of 2022.</p> <p>23 Q And you were drawing a distinction. 24 You said you were aware of the initial 25 investment. Did I hear you correctly?</p>	<p>1 A Correct.</p> <p>2 Q So that means that there were other 3 investments that Mr. Deppoleto made; correct?</p> <p>4 A I believe so.</p> <p>5 Q And how much were those?</p> <p>6 A I don't have the exact amounts.</p> <p>7 Q What's your best memory?</p> <p>8 A I would probably say -- from what was 9 reported in any of the documentation, I'd 10 probably say it was approximately 1.4 or 1.5 11 million, of which, from what I recall from the 12 review, 980,000 of that was dedicated to the 13 Dollar General deal, and the rest was paid out in 14 salaries to Jason Tucker, his wife and the sales 15 guys.</p> <p>16 So that's why I was always kind of 17 confused where that investment -- you know, 18 why -- I'm getting lump -- pulled into this 19 where, you know, it was just a bad investment, 20 the money was misdirected and it's just -- you 21 know, it was advise -- everybody advised against 22 doing that deal. And that was the -- to answer 23 your question, that was the demise of the 24 company -- one of the demises.</p> <p>25 Q Who are the sales guys you were</p>
Page 24	Page 25
<p>1 referring to?</p> <p>2 A Mike Costello and Mike Tzanetatos.</p> <p>3 Q Can you spell those last names?</p> <p>4 A I can spell Costello, C-o-s-t-e-l-l-o. 5 I can't spell Tzanetatos.</p> <p>6 Q And you said your understanding was -- 7 of the initial 1.4 to 1.5 million that 8 Mr. Deppoleto invested in Takeover, your 9 understanding was that 800 to 900,000 of that was 10 earmarked for the Dollar General deal; is that 11 correct?</p> <p>12 A I believe so --</p> <p>13 MR. SEXTON: Object to form.</p> <p>14 BY MR. HARVEY:</p> <p>15 Q And then the rest, you said, was paid 16 to the sales guys and -- the two you just 17 referenced and then you also said to Mr. Tucker 18 and his wife; is that correct?</p> <p>19 A That's correct.</p> <p>20 Q Now, other than that 1.4 to 1.5 21 million, you were aware of an additional \$500,000 22 loan, too; correct?</p> <p>23 A I don't recall that.</p> <p>24 Q Okay.</p> <p>25 A Again, I was not involved -- you know,</p>	<p>1 I'm -- that was -- I was not involved in any of 2 the notes or the financials. And I was actually 3 frozen out.</p> <p>4 Once Mr. Deppoleto came in with Jason 5 Tucker, I was sort of frozen out and had limited 6 knowledge of what was going on, other than what I 7 learned after the fact once all this went down, 8 so...</p> <p>9 Q Now, one of the other things you said a 10 couple of minutes ago was that -- you were 11 telling me about Takeover being left for dead, 12 and you said, "Commitments were made, but not 13 followed through."</p> <p>14 What did you mean by that statement?</p> <p>15 A That commitments were made to support 16 and fund the company in a certain way, and then 17 that stopped. And from what I understand, 18 Mr. Deppoleto pulled out and decided not to move 19 forward after working a new deal with Jason. And 20 then the sales guys, they formed a new -- sort of 21 a new alliance, and they were operating 22 independently. So at that point in time, there 23 was no control over what they were doing, and I 24 wasn't involved.</p> <p>25 Q So the commitments were made by whom?</p>

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1 A Well, the initial commitment was made 2 by Mr. Deppoleto -- 3 Q Are you talking about an investment or 4 some other commitment? 5 A Well, just a commitment to want to, you 6 know, be involved and fund the company and 7 support it. And that was when I was involved. 8 But then shortly thereafter, as you're probably 9 aware, he formed an alliance with Jason Tucker. 10 And then Jason Tucker and the two sales guys 11 mentioned, Costello and Tzanetatos, along with 12 Jason's wife and Kerby, their gamer, social media 13 guy, they began to operate independently and 14 making decisions. And at that point in time, I 15 had no transparency to what was going on until 16 after -- 17 Q This was after Mr. Deppoleto had 18 already loaned money to the company, though; 19 correct? 20 A Could you repeat that? 21 Q This was after Mr. Deppoleto had 22 already loaned money to the company; correct? 23 A Yeah, shortly thereafter. 24 Q Okay. Let me back up. We've been 25 talking about Takeover, and that's Takeover	1 Industries, Incorporated; correct? 2 A Could you repeat that? 3 Q We've been using the name Takeover. 4 The full name of the company is Takeover 5 Industries, Incorporated; correct? 6 A Correct. 7 Q And can you generally describe who 8 started Takeover and when did they start it? 9 A Did you ask who started Takeover? 10 Q Yeah. 11 A Takeover was started by myself, Mike 12 Holley and Toby McBride. 13 Q And when did you start it? 14 A I would say approximately January of 15 2021. 16 Q And what was the genesis of this 17 company? What led you guys to create it? 18 A We had worked in the beverage industry 19 prior, and so we decided to create a beverage 20 company. 21 Q And there's a brand underneath it 22 called NXT LVL; correct? N-X-T, L-V-L? 23 A Yeah, correct. 24 Q What products were sold under the brand 25 name NXT LVL?
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1 A There was a hydrogen water and then 2 also a gamer shot, which was like a two-ounce 3 energy shot. 4 Q Did it have a specific name? 5 A Yes, it had the name Gamer Shot. 6 Q Anything else that was sold under the 7 brand name NXT LVL? 8 A Those were the only two products. 9 Q Are any products still being sold under 10 the brand name NXT LVL? 11 A No, not to my knowledge. 12 Q When was the last time you're aware of 13 products being sold under the brand name NXT LVL 14 having been sold? 15 A I would estimate probably -- maybe Q4 16 2022, October 2022. 17 Q Does Takeover have any employees 18 today? 19 A I'm not sure. 20 Q When was the last time you were aware 21 of Takeover having employees? 22 A Probably around that time when -- the 23 end of 2022, when Jason Tucker was still involved 24 and the two sales guys. 25 Q Other than Mr. Tucker and the two sales	1 guys, were you aware of anyone else being an 2 actual employee of Takeover? 3 A I'm not sure if they -- I don't know 4 what their official status was, but there was 5 another individual by the name of Kerby, who was 6 a social media orchestrator, and then, also, I 7 believe Jason's wife and another consultant, Joe 8 Bel Bruno, all of which were worked with and 9 managed by Jason. I had limited involvement with 10 any of them. 11 Q Do you know how to spell Bel Bruno? 12 A I can try. B-e-l, B-r-u-n-o. 13 Q And what was Kerby's last name, the 14 social media guy? 15 A Fortner, F-o-r-t-n-e-r. 16 Q Other than the people you just 17 mentioned, are you aware of Takeover ever having 18 any other employees? 19 A Not that I can recall right now. 20 Q Are you currently an officer of 21 Takeover? 22 (Brief pause.) 23 Did you hear my question or are you 24 thinking about it? 25 A My -- can you please repeat that?

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<p style="text-align: right;">Page 30</p> <p>1 You're breaking up a little bit.</p> <p>2 Q Are you an officer of Takeover today?</p> <p>3 A No.</p> <p>4 Q Are you a director of Takeover today?</p> <p>5 A I do not believe -- I may still be. I 6 don't know what the status is officially.</p> <p>7 Q Do you know anyone who is an officer or 8 director of Takeover today?</p> <p>9 A I'm not sure of the official status.</p> <p>10 Q You were at one point an officer or 11 director of Takeover; correct?</p> <p>12 A At one point, yes.</p> <p>13 Q When?</p> <p>14 A During 2021. From the beginning -- say 15 from March of 2021, until -- I'd say September 16 2021, when I resigned.</p> <p>17 Q After September 2021, were you ever an 18 officer or director again?</p> <p>19 A I was not an officer. May have still 20 been a director, but, again, I was frozen out of 21 a lot of all that communication.</p> <p>22 Q What was your position in September of 23 2021, before you resigned it?</p> <p>24 A I was the CEO of LTNC.</p> <p>25 Q CEO of LTNC?</p>	<p style="text-align: right;">Page 31</p> <p>1 A Correct. Or let's say chief science officer of Takeover.</p> <p>3 Q What's LTNC?</p> <p>4 A It's the parent company. But if you're 5 referring to Takeover, my title, I guess, was 6 chief science officer.</p> <p>7 Q All right. So you said you resigned 8 your position from Takeover in September of 2021; 9 correct?</p> <p>10 A Correct.</p> <p>11 Q So as of, let's say, August 2021, what 12 titles did you hold at Takeover?</p> <p>13 A Chief science officer.</p> <p>14 Q And were you a board member at that 15 time?</p> <p>16 A I was a board member at that time.</p> <p>17 Q Did you hold any particular position on 18 the board?</p> <p>19 A No. I think I was just on the board.</p> <p>20 Q And why did you resign in September 21 2021, from Takeover?</p> <p>22 A Because of the harassment that I was 23 receiving from Jason Tucker. And --</p> <p>24 Q What do you mean by "harassment"?</p> <p>25 A Pardon?</p>
<p style="text-align: right;">Page 32</p> <p>1 Q What do you mean by "harassment"?</p> <p>2 A Just general being forced to do things 3 that I didn't want to do, sign documents and 4 agreements, and just -- it was just a -- not a 5 good situation. Conflict of business ethics.</p> <p>6 Q When you say "forced," was he 7 physically forcing you?</p> <p>8 A No. Verbally forcing, verbally 9 harassing, making threats.</p> <p>10 Q Was he in the same room when he made 11 these threats?</p> <p>12 A No. He was typically hiding out in 13 Mexico.</p> <p>14 Q So you resigned because of harassment 15 and threats over the internet from Mr. Tucker?</p> <p>16 A Correct.</p> <p>17 Q When --</p> <p>18 A And I just --</p> <p>19 Q Go ahead. Go ahead.</p> <p>20 A No, I just -- I -- it just was a 21 situation I just -- the energy of -- and the 22 overall, you know, demeanor and, you know, 23 attitude was just not something that I wanted to 24 be part of.</p> <p>25 Q But you maintained an officer position</p>	<p style="text-align: right;">Page 33</p> <p>1 after September 2021, at Takeover; correct?</p> <p>2 A Yes.</p> <p>3 Q When did you stop being an officer of 4 Takeover?</p> <p>5 A I would probably say -- probably around 6 the time that -- maybe summer of 2022.</p> <p>7 Q Were you compensated for your position 8 as an officer of Takeover?</p> <p>9 A For a period of time, yes.</p> <p>10 Q How much?</p> <p>11 A It would range from -- I think at the 12 time when Mr. Deppoleto came in, my compensation 13 was minimal. It was around 3,750 a month.</p> <p>14 Q And what time frame is this?</p> <p>15 A May, June, July -- I would say May, 16 June, July, August, September of 2022. And then 17 --</p> <p>18 Q So this is after you resigned your 19 position because of the harassment; correct?</p> <p>20 A Yeah. But that was the year prior, in 21 2021.</p> <p>22 Q Right. You -- I'm saying you were 23 compensated the 3,750 a month even after you 24 resigned because of the harassment you were 25 describing; correct?</p>

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1	A	No. That's not correct. I was --	
2		they -- Jason Tucker reached back out to me in	1 Takeover?
3		January of 2023 [sic], after there was a	2 A No other compensation.
4		situation where he made the attempt to sideline	3 Q Who was on the board of Takeover from
5		Mike Holley. He asked me to come back in and	4 September 2021 through December 2021 -- December
6		help the company because the company needed help	5 31, 2021, I'll say?
7		at that time, and that was in January of 2022.	6 A During that year, I'd -- I would say,
8	Q	So you said a lot of different dates	7 to my understanding -- and I'm not sure if this
9		here. I want to make sure we get the record	8 is accurate. I know myself, Toby McBride, Mike
10		straight.	9 Holley. I believe we were the three on the
11		You told me that you resigned in	10 board. Can't -- Jason may have been on the
12		September 2021 because of the harassment over the	11 board. I'm not sure what happened there.
13		internet from Mr. Tucker; correct?	12 Q You sound like you're having a little
14	A	Well, not over the internet. It was --	13 bit of trouble remembering, and I'm not faulting
15		you know, directly with phone calls and	14 you for it, but would you defer to the corporate
16		communication. But that was in September of	15 record book to say who exactly was on the board
17		2021. And then I was asked to rejoin the company	16 at what time --
18		after Mike Holley had been taken out in January	17 A Yeah, that -- that would probably give
19		of 2022.	18 the most accurate reading. And the reason I
20	Q	Okay. And then after you rejoined, you	19 can't exactly recall is because there was so many
21		were compensated at that 3,750 a month in the May	20 people coming on and off. I really wasn't, you
22		through September 2022 time frame; correct?	21 know, keeping track.
23	A	Correct.	22 Q Okay.
24	Q	Okay. What other compensation did you	23 A But I'm sure the --
25		receive for being an officer or director of	24 Q Now, you mentioned --
			25 A -- accurate.
		Page 36	Page 37
1	Q	I'm sorry, what?	1 A 2021.
2	A	I said I'm sure the corporate record	2 Q Why did you hold the CEO position in
3		book would be the best reference versus my	3 March through September of 2021 of Labor SMART?
4		recollection.	4 A Because at the time I was -- felt --
5	Q	Okay. Now, you mentioned LTNC, which	5 everybody involved felt that it was best that I
6		you said was the parent company for Takeover;	6 took that position until someone else could step
7		correct?	7 in to handle that role.
8	A	Correct.	8 Q To your knowledge, who started Labor
9	Q	And that's -- stands for Labor SMART?	9 SMART?
10		That's the name of LTNC?	10 A Ryan Schadel.
11	A	Right.	11 Q Schadel is S-c-h-a-d-e-l; is that
12	Q	And generally speaking, what is Labor	12 right?
13		SMART?	13 A I believe so.
14	A	It's a labor contraction -- contracting	14 Q And when did he start it? Do you
15		company.	15 know?
16	Q	Can you say little more about that?	16 A That, I don't know. I could estimate
17	A	That's about all I can really say.	17 maybe 2013, 2014 time frame, but I'm not sure.
18	Q	You were the CEO of Labor SMART at some	18 Q Where was Mr. Schadel in this March
19		point, weren't you?	19 through September 2021 time frame that you were
20	A	Correct.	20 the CEO?
21	Q	How long did you hold the CEO position	21 A Where was he physically?
22		of Labor SMART?	22 Q No. Where was he in relation with the
23	A	From what I had mentioned earlier,	23 company?
24		probably six months, March through September.	24 A He had stepped down.
25	Q	Of what year?	25 Q Why did he step down?

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 1 A Because we were essentially taken over
 2 by -- we were taken over by the -- you know, we
 3 essentially took over the company, so he really
 4 didn't have -- I think he continued to manage the
 5 labor business, but wasn't really involved with
 6 our side of the business.

7 Q And what do you mean by "we" took it
 8 over? When you say "we" took over Labor SMART,
 9 what do you mean by that?

10 A Well, the Takeover company, the
 11 beverage company, essentially, was the first --
 12 you know, the company that was involved with
 13 Labor SMART. So I guess it was like a
 14 subsidiary.

15 Q I'm not sure I'm tracking here. So my
 16 understanding from what you said before was that
 17 Labor SMART was the parent; Takeover was a
 18 subsidiary. Is that what you told me earlier?

19 A I believe so.

20 Q Okay. And usually the subsidiary is
 21 subservient to the parent company. So why
 22 what did you mean by Takeover took over Labor
 23 SMART?

24 A I'm not sure. I'm not quite sure I'm
 25 understanding what you're asking me.

Page 39
 1 Q Well, let's try this way: So you
 2 said -- I asked you where Mr. Schadel was with
 3 regard to Labor SMART in the March through
 4 September 2021 time frame when you were the CEO
 5 of Labor SMART. And you told me there wasn't
 6 really anything for him to do.

7 Do you remember telling me that two
 8 minutes ago?

9 A Yeah.

10 Q Okay. So why was there nothing for him
 11 to do with regard to Labor SMART, which was the
 12 parent company?

13 A Well, I meant -- you were referencing
 14 Takeover, so I thought you were talking about
 15 Takeover. So there was really nothing much for
 16 him to do there, but he was still, I believe,
 17 running the labor division.

18 Q So I want to make sure I understand.
 19 You were the CEO of Labor SMART, not Takeover;
 20 correct?

21 A Correct.

22 Q Okay. And so as the CEO of Labor
 23 SMART, you were overseeing the whole company of
 24 Labor SMART; correct?

25 A Very high level.

Page 40
 1 Q Okay. Why was Mr. Schadel not the CEO
 2 in March through September of 2021 of Labor
 3 SMART?

4 MR. SEXTON: Object to form.

5 A I believe Ryan resigned. I mean, I --
 6 you'd have to check the actual records. I'm not
 7 sure.

8 BY MR. HARVEY:

9 Q Did Mr. Schadel have anything to do
 10 with Takeover?

11 A In what capacity?

12 Q Any capacity.

13 A I'd say no.

14 Q When did Takeover and Labor SMART start
 15 doing business together? You told me you started
 16 Takeover in around January 2021; correct?

17 A Correct.

18 Q When and how did Labor SMART and
 19 Takeover come to be involved with each other at
 20 all after that?

21 A Takeover was introduced to Labor SMART,
 22 Ryan Schadel, by another colleague by the name of
 23 Jim Janis, and then that's how the relationship
 24 started.

25 Q And did Labor SMART purchase

Page 41
 1 Takeover?
 2 A Yes, I believe Labor SMART purchased
 3 Takeover.
 4 Q When was that?
 5 A I believe it was around March of
 6 2021.
 7 Q How much did it pay?
 8 A I believe it was 6 billion shares.
 9 Q Of Labor SMART?
 10 A Of Labor SMART, I believe.
 11 Q And you and Mr. McBride and Mr. Holley
 12 were the owners of Takeover at that time;
 13 correct?
 14 A Correct.
 15 Q So did you each get 2 million -- or 2
 16 billion shares?
 17 A We did.
 18 Q Do you still have those shares?
 19 A No, I don't.
 20 Q When did you get rid of them?
 21 A Well, unfortunately, they were extorted
 22 from me by Jason Tucker.
 23 Q What do you mean by "extorted"?
 24 A I was harassed continually. There was
 25 a period of time when he was supposedly supposed

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 1 to be getting the financials of the company done.
 2 He said that he had oversold shares to investors.
 3 He needed me to loan the shares back to the
 4 company, and they would then be returned to me,
 5 which they never were. And he had never been
 6 even working on the financials, so I was extorted
 7 and conned out of 1.85 billion shares.

8 Q When was this?

9 A That was in May of 2022.

10 Q And you said 1.85 billion, but you
 11 initially got 2 billion. What happened to the
 12 rest of them?

13 A I retained those.

14 Q So you still have those today?

15 A Yes.

16 And that was also partially the reason
 17 why I resigned in September of 2021 because of
 18 just continual harassments like that. And then
 19 that actual incident happened right before
 20 Mr. Deppoleto came involved with the company.

21 Q And you said you "resigned." Are you
 22 talking about resigning from Labor SMART?

23 A Correct.

24 Q Who introduced you to Labor SMART? Was
 25 it Jim Janis introduced you or did he introduce

1 Mr. Schadel with somebody else?

2 A Jim Janis introduced -- he introduced
 3 us to Ryan Schadel.

4 Q All three of you?

5 A Yes --

6 Q Mr. McBride, Mr. Holley and yourself?

7 A Correct.

8 Q And how was that introduction made?

9 Was it in person, via the internet?

10 A Probably through -- I think through a
 11 conference call.

12 Q What was your compensation as CEO of
 13 Labor SMART?

14 A I want to say like \$5,000 a month.

15 Q Have you worked for Labor SMART in any
 16 capacity since September 2022?

17 A No.

18 Q Other than CEO of Labor SMART, did you
 19 hold any other positions at Labor SMART?

20 A No.

21 Q And Mr. Tucker, this whole time you
 22 were talking about him in relation to Labor
 23 SMART, did he have a position at Labor SMART?

24 A No. I don't believe so.

25 Q And so when you were talking about him

Page 44
 1 doing the books for Labor SMART, he was doing
 2 that as an unaffiliated party with Labor SMART?

3 A He -- I believe he was doing that as
 4 the president of -- he may have been the
 5 president of Labor SMART; he may have been the
 6 president of Takeover, but he was doing it.

7 Q You don't know one way or another?

8 A He was always changing titles and
 9 names, and everything was always just a -- kind
 10 of a blur, so, yeah, I really don't know exactly.
 11 I mean, he -- I think he was a director and
 12 president of Takeover Industries. That was the
 13 title that he gave himself.

14 So at that time, he was assisting or
 15 trying to assist or complete the financials that
 16 the company needed and was operating, you know,
 17 on his own with that.

18 Q Is Labor SMART the majority shareholder
 19 of Takeover?

20 A I'm not sure.

21 Q Who would be the best person to answer
 22 that question?

23 A Maybe Mike Holley.

24 Q Does Takeover still hold board of
 25 director meetings?

1 A No. All -- all of the Takeover
 2 meetings, to my understanding, were stopped in
 3 May of -- May and June of 2022, when
 4 Mr. Deppoleto became involved with the company
 5 and began communicating with Jason Tucker.
 6 That's when everything went dark, went silent and
 7 everything got frozen out.

8 So I don't have any knowledge of
 9 anything that had happened after that, until near
 10 the end of the year when we found out there was
 11 all these private meetings being held without,
 12 you know, no other knowledge. And at that time,
 13 there was no -- everything was being done top
 14 secret, and that was when all those other
 15 decisions were made to do Dollar General and so
 16 on and so forth.

17 Q Now, you were telling me a little bit
 18 about your role with Next Gen Beverages, and you
 19 said you created formulas and helped with
 20 marketing, things of that nature; correct?

21 A Correct.

22 Q Did you have a formal title of any sort
 23 with Next Gen Beverages?

24 A No. I never took a formal title.

25 Q Were you ever an officer, director,

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1	member of Next Gen Beverages?	1 I'm not sure who exactly are all the directors at
2	A No, not to my knowledge. Like many	2 this point.
3	volunteers, I was just helping out.	3 Q And you're certain you've never been a
4	Q And you told me you received 300	4 director for Next Gen Beverages?
5	million shares of Next Gen Beverages; correct?	5 A Yeah, never been a director.
6	A Correct.	6 Q How long has Tom Zarro been the interim
7	Q Other than those shares, have you	7 CEO of Next Gen Beverages?
8	received any compensation in any form whatsoever	8 A Since the inception.
9	from Next Gen Beverages?	9 Q Which was when?
10	A No compensation.	10 A I'm not sure the exact date.
11	Q Do you still have the 300 million	11 Q Ballpark's fine.
12	dollar -- or 300 million shares?	12 A Say May or June of 2023.
13	A Yes.	13 Q So Next Gen Beverages was created while
14	Q To your knowledge, how many shares are	14 this lawsuit was pending; correct?
15	outstanding in Next Gen Beverages?	15 A Which lawsuit?
16	A I don't know.	16 Q The Nevada that we're here --
17	Q Who are the current officers of Next	17 A I know there's been -- there's been a
18	Gen Beverages?	18 number of lawsuits. Unfortunately, that's what
19	A I believe we have Tom Zarro as the	19 Jason Tucker did. He just -- he lived in
20	interim CEO, Mike Holley as the COO.	20 creating litigation and all these lawsuits. So
21	Q Any other officers you're aware of?	21 which lawsuit are we talking about?
22	A Not that I'm aware of.	22 Q The Nevada lawsuit that we're here
23	Q How about directors, who are Next Gen	23 taking your deposition in today.
24	Beverages directors?	24 A Oh, okay. I believe so.
25	A I believe probably Tom and Mike, but	25 Q And it was after the Arizona lawsuit
	Page 48	Page 49
1	was pending, too; correct?	1 Q Takeover makes a hydrogen water, too;
2	A I'm not sure.	2 correct?
3	Q You're aware the Arizona lawsuit was	3 A Yes, they did.
4	started before the Nevada lawsuit; correct?	4 (Reporter clarification.)
5	A Correct.	5 MR. HARVEY: Takeover makes a hydrogen
6	Q What's Next Gen Beverages relationship	6 water, too; correct? And he said, "Yes, they
7	to Takeover?	7 did."
8	A Completely new, separate company that	8 A Well, yeah. Takeover had made a
9	had to be formed because there was nothing left	9 hydrogen water, but then that was terminated
10	of Takeover. So it's a completely new, separate	10 because Jason, as I had mentioned, through
11	company.	11 litigation and -- and basically destroyed the
12	Q But Mike Holley is the COO; correct?	12 relationship with that manufacturer, where they
13	A I believe so.	13 no longer wanted to work with Takeover.
14	Q And you created formulas for Takeover;	14 BY MR. HARVEY:
15	correct?	15 Q So other than hydrogen water, what
16	A I created formulas for Takeover. And	16 other products does Next Gen make?
17	then I also created formulas for the new company	17 A Next Gen makes Nootropic drink, an
18	being Next Gen.	18 alkaline water --
19	Q Are they the same formulas?	19 Q Well --
20	A No. Totally different formulas.	20 A I'm sorry, what was that?
21	Q What's different about them?	21 Q How do you spell Nootropic?
22	A Ingredients, ratios of ingredients,	22 A N, double o, t-r-o-p-i-c.
23	flavor systems and different types of products.	23 Q And what was the other one you said?
24	Q What products does Next Gen make?	24 A A Nootropic coffee.
25	A Next Gen makes a hydrogen water and --	25 Q Any other products?

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1	A And an alkaline water.	1 doing.
2	Q Does it make Gamer Shots?	2 That is where he then formed a
3	A It does not make Gamer Shots.	3 coalition with James Deppoleto. They separated
4	Q Anything that resembles a Gamer Shot?	4 the company. And then I come to find out in late
5	A Nothing that resembles a Gamer Shot.	5 November, December of 2022, that they had a
6	Q Any two-ounce energy drinks?	6 private meeting representing Takeover without my
7	A No two-ounce energy drinks.	7 knowledge or consent and was trying to cut a deal
8	Q How did Next Gen Beverages obtain its	8 with 5-Hour Energy to license Gamer Shot to them.
9	startup capital?	9 So this is the type of stuff that was
10	A That, I'm not sure. But I know it	10 going on without my knowledge and why I was
11	was -- there was new capital that came into the	11 frozen out during that time. And so with that, I
12	company.	12 said -- you know, at one point when we were going
13	Q How do you know that?	13 dealing with this negotiation, I said, let them
14	A Because from what I recall, there was	14 have the Gamer Shot, like we just need to move on
15	either -- it was either self -- it was either	15 and save the new company for all the
16	funded by someone -- somebody new that came in.	16 shareholders.
17	I'm not sure exactly where it came from, but it	17 So, you know, they had the Gamer Shot,
18	was new products, new company, new money,	18 and, you know, I don't know -- to my
19	everything was new.	19 understanding, they are still trying to do
20	A And to mention Gamer Shot, it's kind of	20 something with it.
21	important. That was a formula that I did for	21 Q The new money for Next Gen Beverages,
22	Takeover, the original Takeover company, and that	22 who did it come from?
23	was sort of the demise of the company because the	23 A That, I don't know --
24	product did so well, and there was so much greed	24 MR. SEXTON: Object to form.
25	from Jason Tucker with how well that product was	25 (Reporter clarification.)
	Page 52	Page 53
1	BY MR. HARVEY:	1 do that -- those filings properly. So I know
2	Q You don't have any idea?	2 it's -- these are just the things that it's just
3	A No, I don't, but I know it -- I can't	3 a shame of what happened and what they did to
4	answer exactly where it came from. I don't know.	4 that company because it could have been a great
5	Q What's your best guess?	5 company.
6	A Probably from a private investor, if I	6 Q You said for the investors. What
7	had to guess.	7 investors are you talking about?
8	Q Who is that?	8 A The shareholders, let's say.
9	A I don't --	9 Q What shareholders?
10	MR. SEXTON: Object to form.	10 A The shareholders of the public company.
11	BY MR. HARVEY:	11 Q Which public company?
12	Q I didn't hear you. I'm sorry, what?	12 A The one that we're in discussion of.
13	A I don't know.	13 Q Well, we talked about three separate
14	Q You never had any discussions with	14 companies. Which one are you talking about?
15	Mr. Holley, Mr. Zarro, anyone about where the	15 A Well, we're talking about LTNC.
16	money was coming from for this new company?	16 Q Okay. So you thought you had some sort
17	A No. I was just focused on what I had	17 of obligation within the Next Gen Beverages
18	to do to create new formulas to get the new	18 company to make good on the investments that
19	company up and running, to save the investment	19 investors made in Labor SMART?
20	for the 50,000 shareholders that were, you know,	20 A I'm not quite sure I'm understanding
21	done wrong by the actions of Jason Tucker and	21 what you're asking.
22	Mr. Deppoleto with what they did with Takeover,	22 Q Well, that's why I'm asking. I'm not
23	the first company, and NXT LVL.	23 following you either.
24	Not to mention, NXT LVL trademark was	24 You said -- I asked where the money
25	set up for failure as well because Jason didn't	25 came from for Next Gen Beverages, and you said

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<p style="text-align: right;">Page 54</p> <p>1 for the investors. And I said which investors, 2 and you said Labor SMART.</p> <p>3 A Oh, okay. I -- maybe -- I meant to say 4 shareholders, but I don't know where the 5 investment came from.</p> <p>6 Q So why would shareholders in Labor 7 SMART, why would you owe them an obligation 8 within Next Gen?</p> <p>9 A Because they put faith in the company, 10 and people did the company wrong.</p> <p>11 Q Put faith in Labor SMART; correct?</p> <p>12 A Yes.</p> <p>13 Q Does Labor SMART own Next Gen?</p> <p>14 A Labor SMART does own Next Gen, I 15 believe.</p> <p>16 Q And there's no functional difference 17 between Next Gen and Takeover because both are 18 owned by Labor SMART; correct?</p> <p>19 MR. SEXTON: Object as to form.</p> <p>20 A It's wholly-owned by Labor SMART, but 21 the functional difference would be that Takeover 22 was essentially run into the background and left 23 for dead, as I had said. There was nothing left. 24 The trademark was gone. They stole the Gamer 25 Shot. They destroyed the relationship with</p>	<p style="text-align: right;">Page 55</p> <p>1 H2ForLife, which was making our hydrogen water, 2 so they literally destroyed the company.</p> <p>3 And the reason that starting the new 4 company to save the investment for the 50,000 5 shareholders was because the intention of Jason 6 and James Deppoleto was to take the company 7 private and run this deal that they were going to 8 do with 5-Hour Energy, which we found out about.</p> <p>9 And so that was where it was like -- 10 all 50,000 shares, if they would have taken that 11 company private, all those people would have been 12 left stranded. So it was just a terrible thing. 13 So I felt an obligation, like many of the 14 volunteers, to put forth the effort to save the 15 company for the shareholders.</p> <p>16 And that has been, you know, the mantra 17 and the consensus because after all this 18 information has come out, you can't deny the -- 19 you know, the facts and the truth of it.</p> <p>20 And I was really appalled when I saw 21 the correspondence between Jason and Deppoleto 22 and 5-Hour Energy, Living Essentials. It was 23 hurtful because I thought I had, you know, a 24 great relationship. You know, I thought I did a 25 great job with that product, and, you know, they</p>
<p style="text-align: right;">Page 56</p> <p>1 tried to hijack it and essentially take the 2 company in private.</p> <p>3 So that was really the reason why the 4 new company was formed to then save it for the 5 shareholders.</p> <p>6 BY MR. HARVEY:</p> <p>7 Q So you and others stopped using your 8 best efforts for Takeover and, instead, applied 9 those best efforts to Next Gen; correct?</p> <p>10 MR. SEXTON: Object to form.</p> <p>11 A Well, that's -- that's not correct 12 because all efforts were put forth to save 13 Takeover, but it could not be saved after --</p> <p>14 BY MR. HARVEY:</p> <p>15 Q Well, you stopped working for Takeover, 16 though, didn't you?</p> <p>17 A I was essentially let go. I was told I 18 was no longer needed.</p> <p>19 Q And in the middle of this lawsuit, you 20 started, along with others, Next Gen and applied 21 all your best efforts to Next Gen; correct?</p> <p>22 A No. That's not the case. There was --</p> <p>23 Q I just asked about it --</p> <p>24 A -- we tried -- everything was tried to 25 save Takeover, but it -- between Jason Tucker and</p>	<p style="text-align: right;">Page 57</p> <p>1 what was happening, the -- there was nothing 2 left. The trademarks were gone. The 3 relationship with Faith Springs and the hydrogen 4 water was gone. They had stolen the Gamer Shot. 5 They raped and pillaged the company. There was 6 nothing left that could be saved. There was 7 nothing there.</p> <p>8 Q You said Next Gen was started in May or 9 June of 2023; correct?</p> <p>10 A I believe so. That's correct.</p> <p>11 Q In July of 2023, while this lawsuit was 12 pending, how many hours did you put forth trying 13 to save Takeover?</p> <p>14 A In July of 2023? I --</p> <p>15 Q Yes.</p> <p>16 A I was on countless hours of phones 17 calls with these negotiations, but, you know, 18 prior to that, there was -- all efforts were put 19 forth. There was nothing that could be done, you 20 know, between, you know, the damage that Jason 21 had done, you know, with the --</p> <p>22 Q That's not my question.</p> <p>23 My question was, in July 2023, you put 24 forth no effort to try and save Takeover; 25 correct?</p>

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<p style="text-align: right;">Page 58</p> <p>1 A Well, the company was already done at 2 that point. The company was completely trashed. 3 I mean, I'd say probably at the end of 2022.</p> <p>4 Q So the answer to my question is yes; 5 true?</p> <p>6 A The answer is yes to what?</p> <p>7 Q In July 2023, you put forth no effort 8 to try and save Takeover; correct?</p> <p>9 A Because it couldn't be saved. That 10 would be correct. It was already -- it was done. 11 It was done by the end of 2022. So it would have 12 been -- there was nothing that could be done at 13 that point. It was already --</p> <p>14 Q Next Gen operates under the brand name 15 of LOCK'DIN; correct?</p> <p>16 A Could you repeat -- I missed that first 17 part.</p> <p>18 Q Next Gen operates under the brand name 19 LOCK'DIN, L-O-C-K, apostrophe, D-I-N; correct?</p> <p>20 A Correct.</p> <p>21 And also, one other point to mention, 22 just to close out the prior question, is that I 23 believe Jason and Melissa, they stole the website 24 and they shut it down. So they essentially -- 25 the company was shut down -- literally.</p>	<p style="text-align: right;">Page 59</p> <p>1 And I -- you know, to me, when I create 2 a product, I treat it like a child. You know, I 3 always want to see it, you know, grow to its full 4 potential, but this was like child molestation, 5 rape. I mean, everything that happened. It was 6 just a tragedy --</p> <p>7 Q Takeover transferred assets to Next 8 Gen, didn't they?</p> <p>9 A No, I don't believe so.</p> <p>10 Q Why do you say you don't believe so?</p> <p>11 A Because there was no assets to be 12 transferred. Everything was destroyed. The only 13 assets were the trademark, which was destroyed, 14 the Amazon store, which was shut down and stolen 15 by Melissa Tucker, the Gamer Shot they stole, and 16 the hydrogen water, they destroyed the 17 relationship with the manufacturer by putting a 18 lawsuit on them. So there was literally no 19 assets.</p> <p>20 Q Takeover transferred trade secrets to 21 Next Gen, didn't they?</p> <p>22 A No. There was no trade secrets to be 23 transferred. What trade secrets were 24 transferred?</p> <p>25 Q Formulas, for instance.</p>
<p style="text-align: right;">Page 60</p> <p>1 A No. There was no formulas transferred. 2 Every -- they stole the Gamer Shot formula, and I 3 said they could have it. And I may have not been 4 on a lot of those legal calls that you were on, 5 but I had given my blessing to say, look, if they 6 want to steal the Gamer Shot and take it. They 7 want to go start Gamer Shots, they could go and 8 do it. Let us just move on and -- and build a 9 company.</p> <p>10 Q Did Next Gen enter an agreement with 11 Manny Pacquaio?</p> <p>12 A I'm not sure what the agreement was.</p> <p>13 Q You're aware of an agreement; you just 14 don't know the specifics?</p> <p>15 A Correct. I think -- if I'm not -- I'm 16 not sure what exactly the exact arrangement 17 was.</p> <p>18 Q Was it a written agreement?</p> <p>19 A That, I don't know.</p> <p>20 Q Do you know the length of the 21 agreement?</p> <p>22 A No, I do not. But I do know that he 23 was a creditor to Takeover and that Jason Tucker 24 signed a 1 million dollar agreement with him and 25 then refused to pay him, which caused the demise</p>	<p style="text-align: right;">Page 61</p> <p>1 of that relationship as well. So that was 2 another destroyed contact and resource and asset 3 that Takeover ruined -- or Jason Tucker ruined.</p> <p>4 Q And the purpose of the agreement with 5 Next Gen was so that Mr. Pacquaio would serve as 6 a brand ambassador for LOCK'DIN; correct?</p> <p>7 A I'm not sure exactly the nature of the 8 agreement. The only agreement that I knew of 9 was, with Takeover, that he was, you know, 10 contracted to endorse the company at a million 11 dollars, and then he was not paid and that was 12 another lawsuit that came on Takeover to 13 basically shut the company down.</p> <p>14 In addition to -- that's where -- I'm 15 sorry. My cat's jumping up here. Hang on one 16 second.</p> <p>17 But, no, in addition to the Manny 18 lawsuit, there was the PFL lawsuit that Jason 19 signed a deal. So there was like -- he committed 20 a multi-year agreement to the PFL, a multi-year 21 agreement to Manny and then refused to pay 22 anybody.</p> <p>23 And that was where some of those 24 commitments that were made in the early going to 25 support the company were -- with Mr. Deppoleto</p>

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 1 were not followed through. And that's, you know,
 2 most likely why they went the direction that they
 3 went with 5-Hour and the Gamer Shot. So that was
 4 in addition to losing the assets. There was more
 5 debt and more lawsuits and more litigation that
 6 the Takeover company was buried with thanks to
 7 Jason Tucker.

8 And whether or not Mr. Deppoleto knew
 9 that Jason Tucker was doing this, I don't know,
 10 but, I mean, if there's anybody to point the
 11 finger at, it's him. He did the most damage.

12 Q Is Manny Pacquaio featured on LOCK'DIN
 13 products?

14 A Yes. He is right now.

15 Q Give me one second. I'm going to share
 16 my screen with you here in a minute.

17 Well, actually, before I do that.
 18 LOCK'DIN sold NXT LVL products on LOCK'DIN's
 19 website; correct?

20 A I don't believe so. I don't think
 21 there was any product sold.

22 Q Okay. I'm going to share my screen
 23 with you here real quick. Let me know if you can
 24 see it.

25 Are you able to see it? This is a June

Page 63
 1 14, 2023, letter. Do you see that?
 2 A Okay. Yep. I see it.
 3 Q I'm going to scroll down.
 4 Well, actually, have you ever seen this
 5 letter before today?
 6 A I'm not sure --
 7 Q This letter dated June 14, 2023?
 8 A I can't recall if I've seen it before.
 9 Q Okay. Here's the LOCK'DIN website.
 10 You recognize the LOCK'DIN website?
 11 A Yeah.
 12 Q And this a NXT LVL product; correct?
 13 A Yes, it is.
 14 Q And here's another one. T-Pain's NXT
 15 LVL Gamer Shot; correct?
 16 A Yes, it is. Yeah, I believe -- when I
 17 see that now, I think that may have been up there
 18 for like a day or two, and then it was taken
 19 down. And I think records were pulled, but there
 20 was no sales even done of those products.
 21 Because those were actually the inferior products
 22 that Jason and Mike T. and Mike Z. decided to do
 23 this with a downgraded formula that didn't sell.
 24 And that's part of the reason why the product
 25 didn't do well. And then it tanked.

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 1 But, yeah, I do recall that now. That
 2 was on the website for a day or two, but it
 3 did -- I don't think there was even one unit
 4 sold. And you could probably pull that data.

5 Q Okay. So I asked you before "if
 6 Takeover transferred any assets to Next Gen, and
 7 you said no. This changes your answer, though;
 8 correct?"

9 A No. Because I don't really think it's
 10 an asset. It might have been a liquidation sale.
 11 I mean, I -- that, I don't know officially, but
 12 it...

13 Q Well, liquidation sale is still an
 14 asset; correct?

15 A Perhaps.

16 Q Well, what's perhaps about it?

17 A They were discontinued products. I
 18 don't -- I mean, I don't know exactly what was
 19 done and what was sold, but I just -- I wouldn't
 20 consider it an asset. I'd consider that more of
 21 a liability and a failed product.

22 Q Okay. And we see on there that
 23 LOCK'DIN was trying to sell the NXT LVL Gamer
 24 Shots at a discount, too; correct?

25 A Well, you know what? Nobody wanted

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 1 those shots. That's why they were returned from
 2 Dollar General. And so -- and I -- now that I'm
 3 looking at that, I don't even think -- even when
 4 those were being sold on the Takeover site, they
 5 weren't selling. I would -- it'd probably -- I'd
 6 like to see the sales report of that myself
 7 because I bet you there was not one unit sold.

8 Q Okay. But just looking at it, we see
 9 the price is listed as 41.99; true?

10 A Yeah.

11 Q And it's listed --

12 A And -- and couldn't give --

13 Q -- \$21; correct?

14 (Reporter clarification.)

15 A Couldn't -- you couldn't give it away.
 16 And I have to defend my formula because that was
 17 not my formula. Those guys went and made it a
 18 cheaper formula to do that deal, which I advised
 19 against, and that's why the whole thing tanked,
 20 so...

21 (Reporter clarification.)

22 MR. HARVEY: Sure. I said we see
 23 listed on the website the list price is 41.99.

24 BY MR. HARVEY:

25 Q True, Mr. Pavlik?

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1	A That's what it says there, yes.	1	A Sure. Yes, I have.
2	Q But it's actually being sold on the	2	Q When did you first meet Michael
3	LOCK'DIN website for \$21; correct?	3	Holley?
4	A That's right. Because I think at the	4	A I met Michael Holley back in 2009.
5	time there's still probably a warehouse filled	5	Q What were the circumstances?
6	with all of those products because they did not	6	A We were working for -- they were
7	sell. None of them sold because they made an	7	distributing a product for a company that I had
8	ineffective product.	8	developed a Nootropic drink for back in 2009.
9	Again, part of the reason why the	9	Q Who is the "they" in that sentence?
10	product failed, they decided to downgrade the	10	A It was a company called Body Well.
11	formula. They didn't work. It was like watered	11	Q Where were they based out of?
12	down B vitamins with a little caffeine, so --	12	A Sunrise, Florida.
13	Q And, sir, I'm trying to get you out of	13	Q And you were selling or developing
14	here as quickly as possible today. We'll go a	14	product for Body Well?
15	little bit better if we stick with my questions;	15	A Correct.
16	okay?	16	Q When did you first -- well, did you
17	A Oh, no problem. Sure thing. I'm just	17	keep up with him through that entire 2009 through
18	trying to be helpful.	18	2021 time frame?
19	Q Now, did LOCK'DIN pay Takeover for	19	A No.
20	these products?	20	Q When did you reconnect with him before
21	A I do not believe so. I'm not sure.	21	starting Takeover?
22	That, I don't know.	22	A Probably, say, in 2018, 2019.
23	Q And you've promoted LOCK'DIN products	23	Q When did you first meet Toby McBride?
24	on your personal social media channels;	24	A At the same time.
25	correct?	25	Q 2018, 2019, or back when --
	Page 68		Page 69
1	A No. In 2009. Same time as Mike	1	Q And what was your understanding of his
2	Holley.	2	background?
3	Q He was working for Body Well also?	3	A I knew that he was involved in sober
4	A Correct.	4	living homes out in Vegas, helping addicts in
5	Q Did you keep up with him the "whole time"	5	recovery, which has been an area I've been
6	between 20 -- or 2009 and 2021?	6	passionate about because I've had a number of
7	A No. We reconnected around the same	7	friends and family that have suffered from that,
8	time.	8	so...
9	Q What were the circumstances under which	9	Q And you said Mr. Schadel, your
10	you reconnected with those two?	10	understanding was, he started Labor SMART in
11	A I can't recall specifically. I think	11	2013, thereabouts?
12	we met at a trade show. And then there was	12	A I'm not exactly sure the exact date.
13	another opportunity for a company that I was	13	Q Mr. Janis introduced you to him,
14	going to formulate a product for. And since they	14	though?
15	had the background in beverage distribution, we	15	A That's -- yes. Correct.
16	connected on that, and that company was Ignite.	16	Q Was Mr. Schadel ever an employee,
17	And so that's how we reconnected on that deal.	17	agent, officer, director of Takeover?
18	Q When did you meet Tom Zarro for the	18	A I do not believe so.
19	first time?	19	Q Was he ever an officer, agent,
20	A I met Tom Zarro for the first time -- I	20	employee, director of Next Gen?
21	would say maybe in March of 2023, maybe.	21	A I don't believe so.
22	Q What were the circumstances under which	22	Q The Mike Tzanetatos -- is that how you
23	you met Mr. Zarro in March 2023?	23	pronounce his name?
24	A I met him while I was visit -- I was in	24	A Something like that.
25	Vegas for a trade show.	25	Q Is it T-z-a-n-e-t-a-t-o-s? Does that

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<p>1 sound right?</p> <p>2 A That sounds right.</p> <p>3 Q Okay. And you said he was an employee</p> <p>4 of Takeover; correct?</p> <p>5 A I believe so.</p> <p>6 Q And, to your knowledge, was he just a</p> <p>7 sales rep or did he hold other roles?</p> <p>8 A He originally was hired as the sales</p> <p>9 rep, but then I believe he gravitated to other</p> <p>10 roles under Jason Tucker, which involved product</p> <p>11 development and formulation, which led to his</p> <p>12 revision of my Gamer Shot formula to a reduced</p> <p>13 version, which was one of the reasons why the</p> <p>14 product failed miserably.</p> <p>15 And he also was probably part of the</p> <p>16 team that supported doing the Dollar General</p> <p>17 deal, which also failed miserably.</p> <p>18 Q You've referenced the Dollar General</p> <p>19 deal a couple times. Can you explain a little</p> <p>20 more about what happened there?</p> <p>21 A Yes. There was an opportunity that I</p> <p>22 believe Jason Tucker had, along with Mike</p> <p>23 Costello and Mike Tzanetatos, that they wanted to</p> <p>24 do a Gamer Shot for Dollar General. And with</p> <p>25 Takeover at the time being a premium brand, it</p>	<p>Page 70</p> <p>1 did not make sense to go into a closeout store.</p> <p>2 This discussion started in June of</p> <p>3 2023, which once I expressed my, you know,</p> <p>4 feeling that it was a horrible idea, I then was</p> <p>5 frozen out of communication. They continued to</p> <p>6 move forward with the deal. I believe they put</p> <p>7 out close to a million dollars for the</p> <p>8 reduced-cost version Gamer Shot product.</p> <p>9 I believe that they -- and I found this</p> <p>10 out after the fact, that Mr. Deppoleto was told</p> <p>11 by Mike Costello and Tzanetatos to do these</p> <p>12 displays for Dollar General, which was another,</p> <p>13 you know, investment there, and also they spent</p> <p>14 excessive amounts shipping product to Dollar</p> <p>15 General, I believe 150,000.</p> <p>16 And then there was still another 3</p> <p>17 million that was due to Dollar General over the</p> <p>18 course of 2 to 3 years based on the contract. So</p> <p>19 had that thing still went forward, Mr. Deppoleto</p> <p>20 would have probably been in 5 to 7 million into</p> <p>21 this deal because of what they decided to do with</p> <p>22 the Dollar General deal.</p> <p>23 So in reality, you know, I understand,</p> <p>24 you know, the reason we're on this deposition now</p> <p>25 is because Mr. Deppoleto is concerned about his</p>
<p>1 investment. But the truth is his investment was</p> <p>2 poorly appropriated and allocated towards the</p> <p>3 Dollar General deal, which, you know, if it was</p> <p>4 1.5 or 2 million, I would say 90 percent of that</p> <p>5 went to that deal and went to pay the people that</p> <p>6 coerced that deal.</p> <p>7 That's why I just -- it blows my mind</p> <p>8 that I'm here on this deposition today when I --</p> <p>9 this all could have been stopped, and truly,</p> <p>10 those that are responsible for that debt are</p> <p>11 those individuals: Jason, Mike Costello, Mike</p> <p>12 Tzanetatos and, for that matter, Mr. Deppoleto,</p> <p>13 as a director having invested in the company and</p> <p>14 then further allowing that to happen. It was</p> <p>15 just bad business, bad decision.</p> <p>16 Q What year did you say this was or what</p> <p>17 time frame, this Dollar General deal --</p> <p>18 A This was -- this was between, I would</p> <p>19 say, May 2022 and October 2022.</p> <p>20 I recall meeting Mr. Deppoleto in May</p> <p>21 of 2022, at a PFL event; had a great</p> <p>22 conversation. Told him who I am, what I did.</p> <p>23 Got along great. Shortly thereafter, he went</p> <p>24 to -- he flew to Mexico to meet Jason Tucker, and</p> <p>25 that was probably in end of May, June of 2022.</p>	<p>Page 72</p> <p>1 And that's when Jason started whatever he started</p> <p>2 with him, you know. And then the next thing, you</p> <p>3 know, they separated the company. They brought</p> <p>4 in Mike Tzanetatos, Mike Costello.</p> <p>5 They started operating independently.</p> <p>6 They wanted to do this Gamer Shot for Dollar</p> <p>7 General. Mike Tzanetatos thought he was going to</p> <p>8 save the company money by doing a cheaper shot,</p> <p>9 which they did, which we -- of course, as I</p> <p>10 mentioned, backfired. And --</p> <p>11 Q I think I got it. Like I said, I'm</p> <p>12 trying to get you out of here, so --</p> <p>13 A Oh, yeah. No, I -- but I want to give</p> <p>14 you the right information, too, so that you</p> <p>15 understand really what happened. Because, you</p> <p>16 know, I -- these --</p> <p>17 Q Yeah, I --</p> <p>18 A -- are the facts where the investment</p> <p>19 went. So I just want to make sure I give you all</p> <p>20 the information I have, you know.</p> <p>21 Q I got it.</p> <p>22 So Mike Costello, he also worked at</p> <p>23 Takeover; correct?</p> <p>24 A That's correct.</p> <p>25 Q Was his formal role there sales rep or</p>

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<p style="text-align: right;">Page 74</p> <p>1 did he have other roles?</p> <p>2 A Well, he was -- at first, he was just a</p> <p>3 sales rep, but then I later found out that he</p> <p>4 moved as -- he moved in as CEO. And I believe,</p> <p>5 if I'm not mistaken, he and Jason were the ones</p> <p>6 that signed the latter notes from Mr. Deppoleto</p> <p>7 that I was unaware of that were done until after</p> <p>8 the fact. So, again, further implicating Jason</p> <p>9 Tucker and Costello for the misappropriation of</p> <p>10 those funds towards Dollar General.</p> <p>11 Q When was he the CEO of Takeover?</p> <p>12 A I would want to say probably summer of</p> <p>13 2022.</p> <p>14 Q And, again, you'd defer to the</p> <p>15 corporate record books on that?</p> <p>16 A That would be best.</p> <p>17 Q Was Mr. Tzanetatos, was he ever an</p> <p>18 employee, agent, officer or director of Next</p> <p>19 Gen?</p> <p>20 A No. After what he did to Takeover --</p> <p>21 Q No, that's fine.</p> <p>22 Was Mr. Costello --</p> <p>23 A -- I -- I would have been -- I would</p> <p>24 not have volunteered my services had he been</p> <p>25 involved.</p>	<p style="text-align: right;">Page 75</p> <p>1 Q Was Mr. Costello ever an employee,</p> <p>2 agent, officer or director of Next Gen?</p> <p>3 A No, sir. Same thing: I would not have</p> <p>4 been involved or volunteered my services had</p> <p>5 those individuals --</p> <p>6 Q Who is Maurice Salem?</p> <p>7 A What's that?</p> <p>8 Q Who is Maurice Salem?</p> <p>9 A I'm not sure. I believe he's a -- is a</p> <p>10 shareholder.</p> <p>11 Q Of?</p> <p>12 A Of LTNC.</p> <p>13 Q Labor SMART?</p> <p>14 A Correct.</p> <p>15 Q Have you ever met Mr. Salem?</p> <p>16 A Never met him.</p> <p>17 Q Ever spoken to him, even if you didn't</p> <p>18 meet him face-to-face?</p> <p>19 A I may have been on a conference call</p> <p>20 that he was on, but can't recall if I've actually</p> <p>21 spoken directly to him.</p> <p>22 Q To your knowledge, was he ever an</p> <p>23 employee, agent, officer or director of</p> <p>24 Takeover?</p> <p>25 A Not to my knowledge.</p>
<p style="text-align: right;">Page 76</p> <p>1 Q Was he ever an employee, agent, officer</p> <p>2 or director of Next Gen?</p> <p>3 A Not to my knowledge.</p> <p>4 Q And you said Kerby, and that's</p> <p>5 K-e-r-b-y, not K-i-r-b-y; correct?</p> <p>6 A Correct.</p> <p>7 Q Kerby Fortner?</p> <p>8 A That's correct.</p> <p>9 Q And what was his role again at</p> <p>10 Takeover?</p> <p>11 A He was like the gaming director, social</p> <p>12 media manager.</p> <p>13 Q And he was paid in part with</p> <p>14 investments that Mr. Deppoleto made; correct?</p> <p>15 A That, I'm not sure where his pay came</p> <p>16 from.</p> <p>17 Q Was he ever an employee, agent, officer</p> <p>18 or director of Next Gen?</p> <p>19 A No. And he would go with the same</p> <p>20 group as Costello and Tzanetatos because they all</p> <p>21 conspired together.</p> <p>22 Q Well, there's been reference throughout</p> <p>23 the lawsuit to a June 10, 2021, special meeting</p> <p>24 of Takeovers board of directors. Do you recall</p> <p>25 attending that meeting?</p>	<p style="text-align: right;">Page 77</p> <p>1 A June 10th, 2021, can't recall. It's</p> <p>2 quite a while ago.</p> <p>3 Q Okay. Do you remember being elected as</p> <p>4 a director of Takeover at that meeting?</p> <p>5 A I don't recall, but if the records</p> <p>6 state that that happened, then it happened.</p> <p>7 Q Okay. And you'd defer to the records</p> <p>8 in terms of what resolutions were passed at that</p> <p>9 meeting; correct?</p> <p>10 A I would say so, correct.</p> <p>11 Q Did you have any involvement in</p> <p>12 soliciting celebrity endorsements for Takeover?</p> <p>13 A No, not to my --</p> <p>14 Q So -- you had no communications with</p> <p>15 T-Pain?</p> <p>16 A No. That was a relationship that Jason</p> <p>17 Tucker managed exclusively.</p> <p>18 Q How about Manny Pacquaio, did you have</p> <p>19 communications with him?</p> <p>20 A No. That was another one that Jason</p> <p>21 Tucker did that. I think it was a million</p> <p>22 dollars, the Manny and like 900,000 to T-Pain</p> <p>23 that he committed to for the company.</p> <p>24 Q Have you ever reviewed either T-Pain's</p> <p>25 contract or Manny Pacquaio's contract with</p>

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1	Takeover?	
2	A No. I have not reviewed it. And,	Q Meaning you understood that
3	truthfully, with all of the contracts always	Mr. Pacquaio was agreeing to refrain from
4	being changed and manipulated by Jason Tucker, I	promoting products that would compete with NXT
5	don't -- I mean, it -- he tried to falsify	LVL; correct?
6	documents a number of times. Company --	A I don't have the contract in front of
7	Q Did you --	me, but if it states that.
8	A -- I wouldn't trust anything that he	Q Okay. You're aware that McBride spent
9	did.	Takeover money on personal expenses; correct?
10	Q Did you ever sign those contracts on	MR. SEXTON: Object to form.
11	behalf of Takeover?	A No, I -- I have no problem answering
12	A I don't believe so.	that. Because I was on the phone calls with
13	Q Do you know when Manny Pacquaio's	Jason Tucker, and I'm not here to defend anyone's
14	contract was executed with Takeover?	spending habits, but I do know that he was given
15	A I don't believe so. I don't know.	authorization from Jason to use his company card
16	Q If I said April 27, 2021, does that	for his personal expenses. And I just heard that
17	sound correct?	--
18	A It could be within that time frame.	BY MR. HARVEY:
19	That was right after Jason came in.	Q So you --
20	Q And you understood that the Manny	A -- I heard that side line from one of
21	Pacquaio contract was an exclusive contract;	their conversations.
22	correct?	Q So you're aware that Mr. McBride used
23	A I'm not sure --	Takeover funds for personal expenses; true?
24	Q Meaning --	A Yeah. I'm aware of that, just because
25	A -- what the details were.	it was being discussed.
		Q And you're aware that Mr. McBride
		Page 80
1	charged Takeover for shopping; correct?	Page 81
2	MR. SEXTON: Object to form.	1 Mr. McBride using Takeover funds for personal
3	A I don't know exactly what he purchased,	2 expenses?
4	but I know that was brought up at some point.	3 A I don't know. I really wasn't keeping
5	BY MR. HARVEY:	4 tabs on what he was doing, you know.
6	Q You're aware that Mr. McBride used	5 Q You're aware that Takeover reprimanded
7	Takeover money for personal travel; correct?	6 Mr. McBride for his use of Takeover funds for
8	A I'm not aware of that. I mean, to my	7 personal expenses; correct?
9	understanding, it was Jason had told them to use	8 A Yes, I was aware of that.
10	the company card, as long as he pays it back.	9 Q You were aware that Takeover placed
11	Whether he paid it back or not, I don't know.	10 Mr. McBride on a leave of absence; correct?
12	Q You're aware that Mr. McBride spent	11 A Correct.
13	over \$250,000 of Takeover's funds for personal	12 Q For what time period was he placed on a
14	expenses; correct?	13 leave of absence?
15	MR. SEXTON: Object to form.	14 A To the best of my recollection, I would
16	A Yeah. That, I don't know.	15 say it was probably from maybe September of 2022,
17	BY MR. HARVEY:	16 until October or November of 2022.
18	Q Okay.	17 And I believe the reason for that was
19	A Sounds excessive.	18 to keep him out from going to the NACS show
20	Q I thought so too.	19 because that's when they had the meeting set with
21	When did Mr. McBride use Takeover funds	20 5-Hour Energy, and they didn't want Toby at the
22	for personal expenses? When was the first	21 NACS show, so they could have that private
23	instance that you're aware of?	22 meeting.
24	A I don't know.	23 Q Mr. McBride voluntarily stepped down
25	Q When was the last time you're aware of	24 from his position as a director at Takeover;
		25 correct?

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1	A I believe so.	1 THE REPORTER: Okay. 2 --
2	Q What time period?	2 MR. HARVEY: 40 for you.
3	A I want to say that was maybe around the	3 THE REPORTER: Yeah. Come back at --
4	same time frame. September of 2022, maybe. I	4 yeah. 2:50?
5	don't know exactly. I don't know.	5 MR. HARVEY: Sure.
6	Q And you're aware that Mr. Holley made	6 THE REPORTER: Yeah, 10 minutes.
7	unauthorized distributions from Takeover, meaning	7 MR. HARVEY: Okay.
8	distributions without approval from Takeover's	8 THE VIDEOGRAPHER: Counsel, are we
9	board of directors; correct?	9 prepared to go off the record?
10	A That, I don't know. I was never on a	10 MR. HARVEY: Yeah.
11	bank account. Never had a company credit card.	11 THE VIDEOGRAPHER: Okay. We are off
12	I never was involved with the financials.	12 the record at 2:36 p.m.
13	Q Even if you didn't see the financials	13 (Break taken.)
14	directly, you're aware that Mr. Holley allowed	14 THE VIDEOGRAPHER: We're back on the
15	unauthorized distributions of over \$750,000;	15 record at 2:51 p.m.
16	correct?	16 BY MR. HARVEY:
17	MR. SEXTON: Object to form.	17 Q Mr. Pavlik, you're aware Michael Holley
18	A That's what's said, but I don't know if	18 charged personal expenses to Takeover; correct?
19	that was what was proven.	19 MR. SEXTON: Object to form.
20	THE REPORTER: Sir, can we take a	20 A I'm not aware of all of that, but what
21	few-minute break? Been going about an hour and a	21 I do know or recall is that those were dismissed
22	half now.	22 in the court case. There was another court case,
23	MR. HARVEY: Oh, sure. It's 4:35.	23 I believe, I wasn't involved in, but I think that
24	Come back at, what, 4:40? Well, 4:35 my time,	24 was dismissed.
25	I'm sorry.	25 BY MR. HARVEY:
	Page 84	Page 85
1	Q When did you become aware that	1 Q And you attended it; correct?
2	Mr. Holley charged personal expenses to	2 A This may have been -- it may have been
3	Takeover?	3 a phone call board meeting at that time. So I
4	A I don't know exactly when, but I just	4 believe I would have attended.
5	know the result of the court case was that it	5 Q Attended via phone?
6	was -- it was dismissed.	6 A Correct.
7	Q Okay. What was the dollar amount of	7 Q And you were a board member in December
8	Mr. Holley's personal expenses that were charged	8 of 2021; correct?
9	to Takeover?	9 A I believe so.
10	A That I don't know.	10 Q What was the purpose of that meeting?
11	Q I asked you before when you became	11 A I believe Jason Tucker called a meeting
12	aware of. Do you know the dates when Mr. Holley	12 to state that he had found some expenses that had
13	actually charged personal expenses to Takeover?	13 to be reported by Mike Holley --
14	A I don't know the dates, but I was told	14 Q Did -- did the board vote to remove
15	that that was all dismissed, I think, in one of	15 Mr. Holley from the Takeover board of directors
16	the court cases.	16 at that meeting?
17	Q Did Mr. Holley's family members make	17 A The board did vote to do that, although
18	personal purchases and charge them to Takeover?	18 I originally said I wanted to speak to Mr. Holley
19	A Not that I'm aware of.	19 about this because it sounded excessive. And at
20	Q What was the dollar amount that you	20 that time -- it may have been around 5 minutes to
21	heard were charged for personal expenses?	21 5:00 -- he said, no, there's no time for that;
22	A I really don't know exactly.	22 you got to sign the DocuSign in your inbox and
23	Q There was a December 21, 2021, Takeover	23 take my word on this. So that was what I did.
24	board meeting; correct?	24 So I did agree to do it, but then after
25	A December '21, correct.	25 finding out the facts, it turned out that that

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1 was not true.	1 A Okay. So --
2 Q You did ultimately vote in favor of	2 Q Via conference call.
3 removing Mr. Holley from the Takeover board of	3 A -- it isn't the December meeting you
4 directors; correct?	4 were just referring to.
5 A I was forced to do it -- even though I	5 Q No. This is a different one.
6 was -- would have liked to have done some due	6 Do you recognize this resolution of the
7 diligence prior.	7 board of directors of Labor SMART?
8 Q You did ultimately vote to remove	8 A I mean, I -- it looks familiar. I
9 Mr. Holley from the Takeover board of directors;	9 mean, I've seen so many documents. I -- I mean,
10 correct?	10 it's tough. But, yeah, I mean, I'm looking at
11 A Correct.	11 it.
12 Q And was it a permanent removal or was	12 Q Okay. And if we go to the last page,
13 it temporary?	13 is that your signature on the last page there?
14 A I believe --	14 A Doesn't look like my signature.
15 Q At that time, when you voted for it.	15 Q Does not look like your signature. You
16 A I believe at that time -- I can't	16 want me to --
17 recall if it was permanent or -- I think it may	17 A No.
18 have been temporary.	18 Q -- zoom in a little? You look like
19 Q Okay. I'm going to share my screen	19 you're --
20 with you again, Mr. Pavlik.	20 A Sure.
21 Are you able to see, "Resolution Board	21 Q -- straining.
22 of directors of Labor SMART, Inc."?	22 A Yeah. No, zoom it in a little bit.
23 A What was the date of this?	23 Yeah, that doesn't look like my
24 Q If -- it was a couple dates on, but it	24 signature.
25 looks like it's a November 7, 2022, meeting.	25 Q Okay.
Page 88	Page 89
1 A Jason forged a lot of signatures.	1 A Okay. Yeah.
2 Q Okay. Are you saying that you believe	2 Q So is it your understanding that --
3 Jason forged your signature on this?	3 A I do see it.
4 A I'm not saying that. I'm just saying	4 Q Was it your understanding that
5 that it doesn't look like my signature.	5 Mr. McBride and Mr. Holley were both directors of
6 Q Okay. Now, in November 2022, this was	6 Labor SMART as of December 7, 2022?
7 still in the COVID time frame, and I'm seeing a	7 A I -- if the records show that, then
8 reference, in fact, to COVID in this here.	8 yes.
9 Were you signing documents physically	9 Q Okay. Well, it doesn't have "director"
10 in November 2022, or would this have been a time	10 next to your name.
11 you would have been signing electronically.	11 Was it your understanding you were a
12 A Probably -- at that time, probably	12 director of Labor SMART as of November 7, 2022 --
13 electronically.	13 A I -- I had been resigned at that time,
14 Q Okay. Now, going back to this	14 I believe.
15 signature page, does that like look that could	15 Q Okay. Do you remember who called this
16 have been your electronic signature?	16 meeting?
17 A Possibly, sure.	17 A Had to be Jason Tucker.
18 Q Okay. And then next to your name, it	18 Q Now, up in the top, it says on November
19 says, "Observer." What does that mean?	19 7, 2022, at 9:00 a.m. Mountain time you,
20 A Not sure. Maybe that I was -- that's a	20 Mr. McBride and Mr. Holley appeared by conference
21 good question. I don't know.	21 call. Do you see any reference to Mr. Tucker in
22 Q Okay. Right above it, it says, "In	22 that attendee of the meeting?
23 witness whereof, the undersigned being two of the	23 A No. I -- you know, I don't. May --
24 three directors of company," and then it goes on.	24 this -- you know, I'm confusing the one meeting
25 Do you see that?	25 you just said that was December 2021. Now, we're

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 1 talking November 2nd, 2022. So, no, this -- he
 2 would not have called this meeting, no. That --
 3 the December 2021 meeting, Tucker would have
 4 called. This one, no.

Q Okay. Did Mr. Holley call this
 6 meeting?

A Probably, most likely, Mr. Holley
 8 called it.

Q Okay. Did it surprise you that
 10 Mr. Holley was calling the meeting since he was
 11 no longer on Takeover's board of directors at
 12 this point?

A No. It didn't surprise me, especially
 14 after what was -- what transpired in October of
 15 2022, at the NACS show with all of the fraudulent
 16 activity with 5-Hour.

Q Okay. So you attended a board meeting
 18 that Mr. Holley called; correct?

A I believe so. I --

Q Did you --

A -- can't recall exactly who called it,
 21 but it would -- had to be either Toby or Mike.

Q Did you express concern to anyone about
 24 Mr. Holley calling a board of directors
 25 meeting?

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 1 A I don't believe so. I felt there was
 2 probably more concern with Jason Tucker, which I
 3 don't know why he's not involved in these
 4 discussions. That would be -- he's really the
 5 one that we need to have in here, you know.

Q And at this meeting, did -- here, I'll
 7 scroll down so you can see it.

At this meeting, did you purport to
 9 vote to suspend Michael Costello from his role as
 10 CEO of Labor SMART?

A I may have, yes. And I think it was
 12 because of what was happening with the NACS deal
 13 and them hijacking and trying to do the 5-Hour
 14 deal.

Q Going down further, we see there's a
 16 provision that says, "Resolved, the planned
 17 spinoff of Takeover, suspended for 90 days." Do
 18 you see that?

A I do see it.

Q What does "planned spinoff" refer to?

A I'm not sure.

Q Do you recall there being a planned
 23 spinoff of Takeover being in the works as of
 24 November 2022?

A I'm not sure. I wasn't involved in lot

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 1 of those discussions. As you know, I was kind of
 2 not involved in all those activities.

Q But you did sign this document at the
 4 end as one of the three people to sign it;
 5 correct?

A I believe I did.

Q And you wouldn't have signed it if
 8 there was something in here that you disagreed
 9 with; correct?

A Could you repeat that?

Q You would not have signed a document
 12 where there was something in it where you didn't
 13 agree with it; correct?

A That'd be correct.

Q Okay. And this same provision that's
 16 highlighted says that the company was going to
 17 undertake a review of documents and information
 18 concerning the transaction which has been
 19 withheld by Jason Tucker; correct?

A Correct.

Q Did Labor SMART conduct a review of
 22 documents and information concerning the
 23 transaction?

A I'm not sure.

Q You're not sure if it happened?

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 1 A Yeah. I'm not sure if that was done.

Q It was a resolution, though, that was
 3 supposed to happen; correct?

A If it says so.

Q Okay.

A But I'm not -- wasn't sure if you were
 7 asking if it was proposed or if it was done.
 8 Q I was asking if it was done initially,
 9 and you said you weren't sure. And I said but it
 10 was resolved as something that was supposed to be
 11 done; correct?

A Could you repeat that? I'm not
 13 connect --

Q Yeah. It was on -- we were just -- I
 15 can put it back up if you want.

That was in the provision that said
 17 "Resolved." The company was going to undertake a
 18 review of documents and information concerning
 19 the transaction. That was something that was
 20 supposed to happen; correct?

A Which transaction?

Q The planned spinoff of Takeover that
 23 was resolved -- or discussed in that same
 24 paragraph.

A Okay. Yeah. I'm not sure.

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<p style="text-align: right;">Page 94</p> <p>1 Q Okay. I'm going to share my screen 2 with you again. Give me one moment. 3 A I mean, I wasn't a director, so I 4 wasn't really involved in a lot of these 5 conversations, you know. 6 Q But you did sign it; correct? 7 A I did sign it. 8 Q Okay. Got another document up. Are 9 you able to see it? 10 A Not that good. 11 Q It says, "Written consent board of 12 directors of Takeover Industries;" correct? 13 A Yeah. Correct -- 14 Q Do you recognize this document? 15 A Not -- no. But, I mean, again, a lot 16 of the documents all do look the same, as I'm 17 sure you know. 18 Q Let's go to the last page here, which 19 is page 3. 20 There's a signature line for you; 21 correct? 22 A Correct. 23 Q Is that your signature on the last 24 page? 25 A It looks like my digital signature.</p>	<p style="text-align: right;">Page 95</p> <p>1 Q Okay. And it says -- you signed it as 2 a director of Takeover; correct? 3 A It looks that way. I may have been put 4 back on as a director at that time. 5 Q Okay. And if we go up a little bit. 6 At the same meeting, which is also 7 November 7, 2022. 8 A I mean, I thought it said "observer" in 9 the other one, didn't it, or? 10 Q Yes. Yes. Paragraph 6 says, "Resolved 11 Joseph Pavlik is appointed interim president of 12 the company until the board makes a determination 13 with respect to Jason -- or with respect" -- I 14 think that means to Jason Tucker; correct? 15 A That's what it says. 16 Q So as of November 7, 2022, you were 17 appointed as the interim president of Takeover? 18 A I -- I never -- I don't think I ever 19 acted as the president. 20 Q Okay. So -- 21 A I mean, it -- I mean, that says yes, 22 but I think it eventually got transitioned pretty 23 quickly. 24 Q Okay. So in terms of the -- how long 25 the interim period lasted, your testimony is not</p>
<p style="text-align: right;">Page 96</p> <p>1 very long, if at all; correct? 2 A I believe so. 3 Q And the board never voted to appoint 4 you as a permanent president; correct? 5 A I don't believe so. 6 Q And why not? 7 A I don't think I wanted that role or 8 responsibility. 9 Q Mr. Deppoleto never provided written 10 consent for your appointment as president; 11 correct? 12 A I'm not sure. 13 Q Did you ever ask Mr. Deppoleto for 14 written consent to have you appointed as 15 president? 16 A No. I mean, I did try to -- on other 17 occasions, I did try to contact Mr. Deppoleto, 18 but then I was reprimanded by Jason Tucker as to 19 not contact him. So, therefore, I -- from that 20 point forth, I did not attempt to contact him. 21 Q Are you aware of any other officer or 22 director of Takeover seeking Mr. Deppoleto's 23 consent to have you appointed as president? 24 A I'm not sure. Not aware. 25 Q As you sit here today, you can't name</p>	<p style="text-align: right;">Page 97</p> <p>1 another officer or director of Takeover who 2 actually sought Mr. Deppoleto's consent; 3 correct? 4 A I don't believe so. 5 Q Okay. 6 A Although I can't say, you know -- I 7 mean, I -- any time I tried to -- attempt -- like 8 I said, I tried to contact Mr. Deppoleto a number 9 of times, and it got reported back to Jason. 10 Jason said don't contact anybody. He said don't 11 contact the CFO, don't contact Mr. Deppoleto. So 12 that was, you know, kind of the general mantra. 13 Q I'm going to show you another document 14 here. Are you able to see this document? 15 A I can see it. 16 Q And on the top, it says, "Convertible 17 note purchase agreement"; correct? 18 A Correct. 19 Q And we see it's dated May 25, 2022; 20 correct? 21 A Correct. Can you make it a little 22 bigger? 23 Q Sure. Do you recognize this 24 document? 25 A I don't recognize it, but, again, a lot</p>

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<p style="text-align: right;">Page 98</p> <p>1 of these documents look the same. But I do 2 remember this date --</p> <p>3 Q Go ahead and read the first paragraph 4 to yourself, just to orient yourself.</p> <p>5 A Okay.</p> <p>6 Q So this is a May 25, 2022, convertible 7 note purchase agreement between Takeover, 8 Mr. Deppoleto, and then Labor SMART is also 9 signing on for limited purposes; correct?</p> <p>10 A Correct.</p> <p>11 Q When did you first review this 12 document?</p> <p>13 A Probably around that time, I would 14 guess.</p> <p>15 Q Did you provide any feedback on this 16 document before it was executed?</p> <p>17 A I can't recall. Typically, with these 18 documents, Jason Tucker accelerated it and tried 19 to do everything on his own.</p> <p>20 Q Okay. We see in paragraph 1, the 21 purpose of this document was to memorialize 22 Mr. Deppoleto's \$500,000 loan to Takeover; 23 correct?</p> <p>24 A Correct. That's what it says.</p> <p>25 Q Okay. Did you discuss this document</p>	<p style="text-align: right;">Page 99</p> <p>1 before it was -- or did you discuss this document 2 with anyone before it was executed?</p> <p>3 A Probably the other parties involved, 4 which I think were Jason and Toby at the time.</p> <p>5 Q Okay. And what did you discuss?</p> <p>6 A I really can't recall. It's been a 7 couple years ago.</p> <p>8 Q And you think it was within a short 9 amount of time around this May 25, 2022, 10 effective date?</p> <p>11 A Yeah. It was probably around that date 12 because that was shortly after when Jason -- or 13 Mr. Deppoleto went to visit Jason in Mexico. And 14 they had a two-day meeting there. So it probably 15 was around that time. Because earlier in May was 16 when I met Mr. Deppoleto at the PFL event. So, 17 yeah, that probably was the date of the first 18 note.</p> <p>19 Q Okay. Who solicited Mr. Deppoleto's 20 loan to Takeover?</p> <p>21 A Could you repeat that?</p> <p>22 Q Who solicited Mr. Deppoleto's loan to 23 Takeover? Who asked Mr. Deppoleto to loan this 24 money to Takeover?</p> <p>25 A Probably Jason Tucker when they were in</p>
<p style="text-align: right;">Page 100</p> <p>1 Mexico.</p> <p>2 Q Why did Takeover solicit 3 Mr. Deppoleto's loan?</p> <p>4 A I believe Anthony Pettis, who was 5 Mr. Deppoleto's nephew, was invested in the 6 company through Toby McBride. Then that 7 introduction was made at the PFL event, where 8 Toby McBride met Mr. Deppoleto. And then after 9 that introduction, Toby wanted him -- he said, 10 you know, you should go meet Jason Tucker. And 11 that's when he flew to Mexico to meet Jason 12 Tucker.</p> <p>13 So those two -- I don't know who 14 exactly asked for the loan, but the relationship 15 came from Toby and Pettis to Deppoleto, and then 16 Jason formed the relationship thereafter.</p> <p>17 My communication was very limited other 18 than one conversation at the PFL event.</p> <p>19 Q Did you personally discuss the loan 20 with Mr. Deppoleto before this document was 21 executed?</p> <p>22 A What was that?</p> <p>23 Q Did you personally have any discussions 24 with Mr. Deppoleto about this loan before the 25 document was executed?</p>	<p style="text-align: right;">Page 101</p> <p>1 A Yeah, I was not involved in any of 2 those discussions.</p> <p>3 Q As of May 2022, Takeover intended to 4 repay Mr. Deppoleto in accordance with the terms 5 of this note purchase agreement; correct?</p> <p>6 A If that's what the note says, then 7 correct. I mean, I can't see it, but if that's 8 what the note says, then yes.</p> <p>9 Q Well, your understanding before the 10 company took this money, you were intending -- 11 Takeover was intending to repay it; correct?</p> <p>12 A Correct --</p> <p>13 MR. SEXTON: Object as to form.</p> <p>14 BY MR. HARVEY:</p> <p>15 Q You said correct?</p> <p>16 A I don't know if on this note if it 17 was -- he was putting the money in for shares or 18 if it was to be repaid. I don't know. Again, 19 I'm -- my expertise has always been in product 20 development, sales, marketing. All this 21 financial stuff, I really never got heavily 22 involved in.</p> <p>23 Q Well, Takeover wasn't planning to steal 24 the money from Mr. Deppoleto; correct? They were 25 going to give him something in return, either</p>

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1	repayment, shares or something --	1 A Correct.
2	A It -- it was either shares or	2 Q And there's a \$500,000 amount listed in
3	repayment, I'm assuming, of course.	3 the top left; correct?
4	Q And what was -- in May 2022, what was	4 A Correct.
5	Takeover going to use Mr. Deppoleto's loan for?	5 Q You recognize this document?
6	A At that time, probably product	6 A As good as I've recognized the others.
7	inventory, marketing. Maybe PFL. I mean, I'm	7 Q Okay. So you've seen it before;
8	not sure what the funds were allocated for.	8 correct?
9	Q You keep saying "PFL." What's that	9 A Well, maybe once. But, again, with all
10	stand for?	10 of the financial negotiations that was lead by
11	A The Professional Fighters League.	11 Jason and, secondarily Toby, I was not really
12	That's where Anthony Pettis came through and how	12 involved.
13	the -- I guess the first meeting with Mr.	13 Q Okay. Takeover actually received
14	Deppoleto started at the PFL event.	14 Mr. Deppoleto's \$500,000 payment in accordance
15	Q Okay. Showing another one.	15 with this promissory note; correct?
16	Are you able to see this document?	16 A I believe.
17	A You can enlarge it a little bit,	17 Q And Takeover promised to repay
18	please.	18 Mr. Deppoleto his \$500,000 loan; correct?
19	Q Sure. You able to see it now?	19 A According to the document, correct.
20	A Yes.	20 Q Okay. Take that one down.
21	Q And this one says, "Secure convertible	21 Okay. I've got another document up.
22	promissory note," at the top; correct?	22 It says, "Joint written consent to the board of
23	A Correct.	23 directors and shareholders of Takeover
24	Q And this is dated May 25, 2022;	24 Industries, Inc., May 2022"; correct?
25	correct?	25 A Correct.
	Page 104	Page 105
1	Q You recognize this document?	1 A correct?
2	A As good as I recognize the others.	2 A Correct.
3	Q Okay. Generally speaking, what is	3 Q And if we go down little further, we
4	this?	4 see that Jason Tucker, Toby McBride and Michael
5	A It's a joint written consent form.	5 Costello all also signed it; correct?
6	Q Of the board of directors and	6 A Correct.
7	shareholders as constituted on May 2022, of	7 Q And there's no other members of
8	Takeover; correct?	8 Takeover's board of directors who did not sign
9	A Correct.	9 this agreement; correct?
10	Q If we go to the last page, that's your	10 A I believe that's correct.
11	electronic signature on the last page?	11 Q Okay. Take that one down. Show you
12	A Correct.	12 another document here.
13	Q And you signed it on behalf -- or you	13 Are you able to see this document,
14	signed it in your capacity as a director of	14 Mr. Pavlik? It says, "First amendment to
15	Takeover; correct?	15 convertible note purchase agreement"?
16	A Correct.	16 A If you could enlarge it.
17	Q And generally speaking, what's the	17 Q Sure. Are you able to see it now?
18	purpose of this joint written consent?	18 A Yes.
19	A The purpose, to formalize the	19 Q And this one is dated May 25, 2022.
20	agreement.	20 It's referring to May 25, 2022, but then goes
21	Q Okay. And in this paragraph that I'm	21 down and it says, "Made and entered into as of
22	highlighting at the bottom of page 1, it also	22 July 6, 2022"; correct?
23	authorizes Takeover's president, Jason Tucker, to	23 A That's correct.
24	take all necessary actions to effect	24 Q And you've seen this document before;
25	Mr. Deppoleto's note purchase agreement;	25 correct?

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1	A That, I'm not sure. I believe I only	1 signed this because I don't think I did.
2	saw the first one.	2 Yeah. See, that's -- I don't think I
3	Q Okay. It's referring back to the May	3 signed this one.
4	25, 2022, convertible note purchase agreement;	4 Q Okay.
5	correct?	5 A Because that was at the time, like I
6	A Correct.	6 mentioned earlier, they were wanting to put this
7	Q And with this document, Mr. Deppoleto	7 money towards Dollar General, and I didn't think
8	is loaning Takeover an additional \$500,000;	8 it was a good idea. And then at that point in
9	correct?	9 time, I was excluded from all communication.
10	A Correct.	10 Q Okay. It was signed by Jason Tucker,
11	Q So as of July 20 -- July 6, 2022,	11 as the president of Takeover Industries;
12	Mr. Deppoleto has loaned Takeover a total amount	12 correct?
13	of \$1 million; correct?	13 A Correct.
14	A Correct.	14 Q And it was also signed by Michael
15	Q Take that one down.	15 Costello, the chief executive officer; correct?
16	A Could you go back to the bottom of that	16 A Correct. So they should be the ones
17	agreement, please?	17 liable for that note because then they went and
18	Q Sure.	18 misappropriated the funds. I was not involved in
19	A Because I know on those second notes	19 this, with all due respect.
20	that was when Jason was doing that on his own,	20 Q Okay. And then we've got another one
21	and I really -- and that's when things started	21 to show you here.
22	getting shaky during that time. Because that was	22 Are you able to see this?
23	when we began the discussions about Dollar	23 A Can you make it a little larger,
24	General, and I was not agreeing to have any of	24 please?
25	those funds go to that. So I want to see if I	25 Q Sure. This one is the second secured
	Page 108	Page 109
1	convertible promissory note; correct?	1 This Jason Tucker, man, we got to get him on
2	A Correct.	2 these depositions. Let the truth be told here.
3	Q Dated July 6, 2022?	3 Because that's when they began coercing
4	A Correct.	4 to then take the company private, and they wanted
5	Q And Takeover received Mr. Deppoleto's	5 to bankrupt it. I mean, this Jason Tucker is
6	\$500,000 loan in accordance with this second	6 really the guy we need to get, I'll tell you.
7	promissory note; correct?	7 Q Yeah, okay.
8	A It appears so.	8 So then I'm going to show you another
9	Q And the plain terms of the document say	9 document here.
10	that Takeover is promising to repay Mr. Deppoleto	10 So this is joint written -- oh, sorry.
11	his \$500,000 loan; correct?	11 Are you able to see this?
12	A Correct.	12 A Yep. If you can make it a little bit
13	Q Okay.	13 bigger, that'd be great.
14	A Can you please go to the bottom of that	14 Q All right.
15	page again, sir? That document.	15 A That's good.
16	Q Sure.	16 Q Joint written consent of the board of
17	A Because I remember this was in that	17 directors and shareholders of Takeover
18	June time frame where every -- they split the	18 Industries, Inc., dated July 1, 2022; correct?
19	company, and they started just kind of running in	19 A Correct.
20	their own direction.	20 Q And so this is just a couple days
21	So who signed this agreement? Jason	21 before the July 6 document we were just talking
22	Tucker. Who else?	22 about; correct? Documents --
23	Q Jason Tucker, as president.	23 A Correct.
24	A Yeah. And that was at the time -- see,	24 Q And on the last page, the board of
25	that's -- this is too shady. This guy is shady.	25 directors, you signed it; correct?

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1	A Looks like a digital signature.	1 Q Through DocuSign?
2	Q Yes.	2 A Or I was harassed to sign it. But I
3	A But I don't think --	3 remember I disagreed in signing it, and he was
4	Q That's your signature; correct?	4 like, well, if you don't sign it, then, you know,
5	A Correct. But I don't think -- I	5 we're going to put you on -- there was always
6	remembered at that time I would -- that was when	6 some threat. So it was always a threatening
7	Jason was starting to autopopulate my signature.	7 situation.
8	Because I know after that first round -- once the	8 Q Did he have access to your DocuSign?
9	discussion with Dollar General came in, I was	9 A Unfortunately. But, obviously, you can
10	like -- was not agreeing to it.	10 see that I was correct in that those investments
11	Q Okay. So your testimony is that this	11 to Dollar General was not a good investment.
12	is not your DocuSign signature with the code	12 Q Okay. So is it your --
13	underneath?	13 A But --
14	A I mean, it is a DocuSign signature, but	14 Q -- testimony that he did forge your
15	I can't -- I don't recall signing that.	15 signature here or is it possible you were just
16	Q Okay. Well, is it your testimony that	16 coerced --
17	you did or did not sign this?	17 A I -- I really can't recall. I just
18	A Under those terms and at that time, I	18 know that, based on the context of what was
19	don't believe I signed it. I don't recall	19 happening at that time, I would have most likely
20	signing it.	20 not signed that. But I may have been forced into
21	Q You don't recall signing it. So you	21 signing it.
22	could have signed it; you just don't remember one	22 Q And by "forced," again, not physical
23	way or another?	23 force; correct?
24	A But Jason was known to autopopulate	24 A No, verbal harassment, threats.
25	these documents.	25 Q Okay. And this document also
	Page 112	Page 113
1	authorizes the company's president in this bottom	1 thinking?
2	of page 1. It's the exact same as the other	2 A No. You were cutting out there.
3	paragraph. It authorizes Takeover's president,	3 Q As of the date this document's signed,
4	Jason Tucker, to take all necessary actions to	4 July 1, you're not aware of any board of
5	effect Mr. Deppoleto's first amendment to the	5 directors of Takeover who did not sign this
6	note purchase agreement; correct?	6 document; correct?
7	A Hold on. You just cut out there for a	7 A You're cutting out again.
8	minute.	8 Q As of July 1, when this written consent
9	Q I'll say it again. This consent at the	9 to the board of directors?
10	bottom of page 1 authorizes Takeover's president,	10 A Yep.
11	Jason Tucker, to take all necessary actions to	11 Q Everyone who signed it is all the board
12	effect Mr. Deppoleto's first amendment to the	12 of directors from Takeover that you're aware of
13	note purchase agreement; correct?	13 as of that date; correct?
14	A Yeah, it does, and that was a bad	14 I'm sorry, are you thinking or did you
15	move.	15 not hear my question again?
16	Q Okay. And then if we go to the bottom,	16 A No, I'm not -- I'm not getting audio
17	not only do we have electronic signature from	17 right now. Now I just heard you right now.
18	you, we have an electronic signature from	18 Q How about now? Can you hear me?
19	Mr. McBride, Mr. Tucker and Mr. Costello;	19 A Now I can hear you.
20	correct?	20 Q Okay. So this document is dated July
21	A Correct.	21 1, 2022, and it's --
22	Q And you're not aware of any board of	22 A Okay.
23	directors for Takeover who did not sign this	23 Q -- called, "Joint written consent to
24	document; correct?	24 the board of directors"; correct?
25	Did you hear my question or are you	25 A Correct.

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<p style="text-align: right;">Page 114</p> <p>1 Q And as of that date, as far as you 2 knew, the board of directors of Takeover 3 consisted of Mr. McBride, Mr. Tucker and 4 yourself; correct?</p> <p>5 A Correct. And I believe that it was 6 announced that Mr. Deppoleto was a director as 7 well, that Jason announced it on Twitter. So I 8 don't know why he wouldn't be on there.</p> <p>9 Q Okay. Other than perhaps 10 Mr. Deppoleto, you're not aware of any other 11 Takeover board of director who didn't sign this 12 document; correct?</p> <p>13 A Not that I can recall right now.</p> <p>14 Q Okay. Show you another document. 15 This document is called, "Second 16 amendment to convertible note purchase 17 agreement"; correct?</p> <p>18 A Correct.</p> <p>19 Q And this one is made and entered into 20 as of August 19, 2022; correct?</p> <p>21 A Correct.</p> <p>22 Q And it amends the convertible note 23 purchase agreement dated May 25, 2022; correct?</p> <p>24 A Correct.</p> <p>25 Q And with this second amendment,</p>	<p style="text-align: right;">Page 115</p> <p>1 Mr. Deppoleto is loaning Takeover an additional 2 \$500,000; correct?</p> <p>3 A Correct.</p> <p>4 Q As of August 19, 2022, Mr. Deppoleto 5 has loaned Takeover a total amount of \$1.5 6 million; correct?</p> <p>7 A Correct.</p> <p>8 Could you go to the bottom of that 9 document, please?</p> <p>10 Q You know, I can do that, but I think 11 it's not going to have your signature, but we're 12 going to find the written consent where you did 13 sign it. So to save you some time...</p> <p>14 A Okay. Well, I just -- I just know at 15 that time that was the 1.5 that got blown on 16 Dollar General that I advised not to do, but 17 Costello and Jason wanted to do it, and they all 18 went and did it, so...</p> <p>19 Q So now I'm going to show you another 20 document.</p> <p>21 This is a document dated August 19, 22 2022, and it says, "Third secured convertible 23 promissory note"; correct?</p> <p>24 A Correct.</p> <p>25 Q And, again, we've got the \$500 --</p>
<p style="text-align: right;">Page 116</p> <p>1 \$500,000 amount; correct?</p> <p>2 A Correct.</p> <p>3 Q And Takeover actually received 4 Mr. Deppoleto's additional \$500,000 loan in 5 accordance with this third promissory note; 6 correct?</p> <p>7 A Correct.</p> <p>8 Q And Takeover promised to repay 9 Mr. Deppoleto his \$500,000 loan; correct?</p> <p>10 A Correct.</p> <p>11 Can you go to the bottom of that 12 agreement, please?</p> <p>13 Q Sure.</p> <p>14 A Yeah. See, all these were done by 15 Jason, and that's where he -- the guy's known for 16 manipulating and falsifying these documents. And 17 was like -- this was all done -- this is so 18 inappropriate. I'm -- you know, this has taken 19 three years of my life, and now it's taken three 20 hours of our time here today, which I appreciate, 21 but this Jason Tucker, as you can see, if you 22 read between the lines -- I know you're doing 23 your job -- but this is just -- this is insanity.</p> <p>24 I can't even believe this. That this 25 guy is doing this and getting away with that, you</p>	<p style="text-align: right;">Page 117</p> <p>1 know. I mean, but, you know -- the truth and the 2 facts are there. That's what he does, and 3 obviously, he set this up for that, so -- it's a 4 shame.</p> <p>5 Q All right. So the next document I'm 6 showing you is a joint written consent of the 7 board of directors and shareholders of Takeover 8 Industries, Inc.; correct?</p> <p>9 A Correct.</p> <p>10 Q Dated August 18, 2022; correct?</p> <p>11 A Correct.</p> <p>12 Q And if we go down to the last page, 13 again, we've got your DocuSign --</p> <p>14 A Now that one looks a little bit 15 different, if you notice.</p> <p>16 You know, Jason didn't like me. He 17 just -- he excluded me from a lot of stuff and 18 would just go and do things. So, I mean, all 19 these documents, truthfully, like, they could 20 have all been falsified and manipulated by Jason. 21 I don't trust that guy.</p> <p>22 Q Is it your testimony that that's not 23 your DocuSign signature?</p> <p>24 A I can't say it is. I don't know --</p> <p>25 Q Okay.</p>

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<p style="text-align: right;">Page 118</p> <p>1 A -- I mean, it looks like -- 2 Q So it's possible that you signed it? 3 A What's that? 4 Q It's possible that you signed it; 5 correct? 6 A I mean, it's possible, but, you know, a 7 lot of these things were done -- he would just be 8 like, hey, there's a DocuSign in your box, this 9 has to be signed; hey, if you can't do it, I'll 10 get it done for you, so just -- you know, let me 11 go and get this handled. And that's like the 12 way -- things were always a rush. 13 It was always a fire drill. It was 14 always like two minutes to the hour. He'll get 15 it handled, don't worry, I'm protecting us all. 16 And as we can see, he didn't protect anybody 17 other than himself. 18 Q So you either signed it yourself or he 19 signed it for you with your consent because he 20 was rushing you; is that what you're telling 21 me? 22 A Most of the time, yeah, I would not 23 have signed it myself. Like, because it was 24 always last minute; it was always a fire drill. 25 Q Okay. And, again, at the bottom of</p>	<p style="text-align: right;">Page 119</p> <p>1 page 1 of this document, this consent authorizes 2 Takeover's president, Jason Tucker, to take all 3 necessary actions to effect Mr. Deppoleto's 4 second amendment to the note purchase agreement; 5 correct? 6 A Correct. 7 Q And, again, we've got DocuSigns from 8 Mr. McBride, Mr. Tucker, Mr. Pavlik and 9 Mr. Costello; correct? 10 A Correct. 11 Q And as of your knowledge, as of August 12 18, 2022, this list of people that we're looking 13 at, that was all of the directors for Takeover; 14 correct? 15 A I -- other than Mr. Deppoleto. I mean, 16 he was -- I always thought he was a director. He 17 was announced as a director. 18 Q Okay. Setting aside perhaps 19 Mr. Deppoleto, you're not aware of anyone else 20 who's not listed on that page who is a board of 21 director of Takeover; true? 22 A Yeah. To the best of my knowledge, no. 23 And, also, for the record, with Jason, 24 he -- I -- that was why we had a fallout and I 25 resigned originally, because he was always</p>
<p style="text-align: right;">Page 120</p> <p>1 wanting to force me to sign these things and 2 he -- and I -- because I wouldn't want to give 3 him my consent to sign, he then would start; you 4 know, various threats. 5 So it was -- many of these -- like I 6 said, I was frozen out as of June and July. So 7 when all this was going on with Costello and 8 Jason and Toby, I wasn't even in the 9 conversation. Like, I wasn't even involved. 10 I had no -- ever since I voiced my 11 opinion on the Dollar General thing, Jason froze 12 me out. He -- his wife was handling marketing. 13 I really had no involvement, so, you know -- 14 Q How much of Mr. Deppoleto's money was 15 used for salaries? 16 A That, I'm not sure. But I know for 17 myself, it probably wasn't much. I think the 18 largest salaries were from Costello, Tzanetatos, 19 Jason, his wife, Kerby, Bel Bruno. They were 20 probably getting the majority of it. So if you 21 were to find -- 22 Q How much did Mr. Tucker get paid? 23 A I believe, after reviewing the 24 information, he -- him and his wife would take 25 \$20,000 withdrawals after each deposit</p>	<p style="text-align: right;">Page 121</p> <p>1 Mr. Deppoleto made. 2 Q So by this point in time, there's been 3 three deposits for \$1.5 million. You're saying 4 Mr. Tucker had taken three draws of \$20,000, so 5 \$60,000 -- 6 A I don't -- you'd have to ask Mr. Tucker 7 what he took, but I just remember after reviewing 8 the transactions once, I recall that every time 9 there was a deposit made by Mr. Deppoleto, there 10 was two \$20,000 withdrawals. And you'd have to 11 check with him on that, but that's not for me to 12 answer. 13 Q Okay. In any event, your understanding 14 was that his wife -- Mr. Tucker's wife also took 15 a \$20,000 draw -- withdrawal? 16 A I believe between him, his wife, Mike 17 Costello, Mike Tzanetatos, Kerby, Joe Bel Bruno, 18 that's where the salaries went. I was paid 3,750 19 for like June, July and maybe August. Then pay 20 was suspended in September, when Toby got 21 suspended. So I maybe got three payments of 22 3,750 out of the 1.5 or 2 million, where the 23 remainder went to Dollar General and the 24 remainder went to all these people. So the fact 25 that I'm being sucked into this is not fair.</p>

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<p style="text-align: right;">Page 122</p> <p>1 Q How much did Kerby Fortner get paid? 2 A He probably got paid more than -- he 3 probably got paid, you know, maybe three, four, 4 five grand a month. I'm not sure. Again, I 5 wasn't doing payroll. I just saw at the end 6 where all the allocations of funds went. And 7 they were appropriated to Dollar General and to 8 all these peoples' salaries.</p> <p>9 Q What about Mr. Tzanetatos, how much was 10 he paid?</p> <p>11 A He was -- to my understanding, he was 12 probably getting 10 or 12 grand a month. Same 13 with Costello. So that's where a lot -- all that 14 salaries went. Certainly not to me.</p> <p>15 Q Well, I thought you said you were paid 16 3,750 a month?</p> <p>17 A That's a nominal token fee that doesn't 18 cover much, and that was for three months.</p> <p>19 Q You did receive it, though; correct?</p> <p>20 A I did receive it.</p> <p>21 Q Okay.</p> <p>22 A But we're talking less than 10 grand 23 when these guys are taking, you know, a lot more 24 than that.</p> <p>25 Q And you're not claiming that</p>	<p style="text-align: right;">Page 123</p> <p>1 Mr. Deppoleto, out of all the money that he's 2 looking for in this lawsuit, you're not claiming 3 that he didn't pay Takeover any of that money; 4 correct?</p> <p>5 A No, I'm not claiming he didn't -- 6 rephrase that because I -- that might --</p> <p>7 Q Sure. You understood Mr. Deppoleto's 8 claim in this lawsuit is that he's entitled to a 9 little over \$2 million that he loaned to 10 Takeover; correct?</p> <p>11 A Yes, I understand that.</p> <p>12 Q And you're not claiming that he didn't 13 pay all of that to Takeover, are you? In other 14 words, you're admitting that he paid all of that 15 to Takeover --</p> <p>16 A Well --</p> <p>17 Q -- you just dispute what Takeover did 18 with it after --</p> <p>19 A Sure. Yeah. I wouldn't -- I don't -- 20 I wouldn't use the term "admit." I mean, 21 obviously, based on the notes, he did invest that 22 money into Takeover. And, you know, what I had 23 advised was not to invest that money into the 24 Dollar General deal --</p> <p>25 Q Sure.</p>
<p style="text-align: right;">Page 124</p> <p>1 A -- I also said that until the company 2 was profitable, you know, these guys shouldn't be 3 taking 10 and \$12,000 salaries --</p> <p>4 Q Sure, sure, sure. We're on the same 5 page.</p> <p>6 A -- but unfortunately, that's kind of 7 where the whole thing went, where all that money 8 got sucked up, you know --</p> <p>9 Q Sure. I get it. And we're on the same 10 page.</p> <p>11 I just --</p> <p>12 A Okay.</p> <p>13 Q -- your complaint is what Takeover did 14 with the money once it received it from 15 Mr. Deppoleto; correct?</p> <p>16 A That would be correct because it was -- 17 you know, they were in charge --</p> <p>18 Q Yeah. And I get that you got all kinds 19 of complaint. I'm not here to argue --</p> <p>20 A Sure.</p> <p>21 Q -- my only point is, you're not 22 claim -- you -- you had -- you're conceding that 23 Mr. Deppoleto paid all of the money that he's 24 claiming he paid. You just don't like what 25 Takeover did with that money once it got it;</p>	<p style="text-align: right;">Page 125</p> <p>1 true?</p> <p>2 A According to what you presented, it 3 appears that those funds went into the company. 4 I can't say for certain because I wasn't on the 5 bank accounts, and I didn't have access to that 6 information. But what I can say is that of that 7 money that was invested, it was misappropriated 8 into deals and salaries that had nothing to do 9 with me nor -- you know, the Dollar General.</p> <p>10 It was -- it was just a bad investment, 11 you know, and allowing Jason to control it was 12 another bad move. So, again, just talking man to 13 man, I just don't see how -- like, it's pretty 14 obvious what happened here, you know.</p> <p>15 Q You're aware that -- just so we close 16 the loop on the amounts, we've already gone over 17 the 1.5 million that he loaned up through this 18 August 2022 time frame; correct?</p> <p>19 A Yeah, correct --</p> <p>20 Q That's what we've been talking about 21 the last 15, 20 minutes.</p> <p>22 You're aware that Mr. Deppoleto loaned 23 Takeover an additional \$386,700 and -- well, 24 we'll just say \$386,000 in October of 2022; 25 correct?</p>

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<p style="text-align: right;">Page 126</p> <p>1 A In October 2022? Then that had to be 2 right around the time when they had the private 3 meeting with Living Essentials, the makers of 4 5-Hour Energy, and they were trying to cut that 5 side deal without my knowledge with my formula 6 that was stolen from me --</p> <p>7 Q And my question's a lot simpler. I'm 8 just asking you --</p> <p>9 A No, no, I understand. But with that 10 385 -- I'm trying to answer the question. With 11 that 385, I believe that was used for the display 12 stands for the Dollar General deal, if I'm not 13 mistaken. So, again, more money thrown into 14 Dollar --</p> <p>15 Q And, Mr. Pavlik, I'm trying to get you 16 out of here as quickly as possible, and we'll do 17 that --</p> <p>18 A Well, I -- listen, I'm -- let me tell 19 you right now. I'm here to have justice served, 20 and I'm in no rush. I mean, I've got -- I've 21 allocated all night so we can cover all of this 22 because I'm sure there's probably information 23 that you need. So I'm here to provide that for 24 you, but we can --</p> <p>25 Q Right.</p>	<p style="text-align: right;">Page 127</p> <p>1 A -- we can accelerate the process.</p> <p>2 Q And for purposes of the rest of my 3 questions, whether you agree or disagree with 4 what Takeover did with the money, unless I'm 5 specifically asking you that, I only want to know 6 if you're disputing that Takeover got the money.</p> <p>7 So that I have a clean record, we agree 8 that Mr. Deppoleto loaned Takeover an additional 9 \$386,000 and change in October of 2022; 10 correct?</p> <p>11 A I -- if I'm not mistaken, that last 12 amount, I believe, went directly to the display 13 company for the Dollar General displays. So I 14 don't think he loaned it to the company. I think 15 he paid it to whatever the display company was 16 that did the Dollar General displays.</p> <p>17 Q For Takeover; correct?</p> <p>18 A For Takeover against what was advised.</p> <p>19 Q And then Mr. Deppoleto loaned Takeover 20 an additional \$128,924 in November of 2022; 21 correct?</p> <p>22 A That, I'm not aware of. And what that 23 was used for, I -- again, I was not involved with 24 the financial transactions. And if I'm not 25 mistaken, that may have been an additional</p>
<p style="text-align: right;">Page 128</p> <p>1 payment for the displays --</p> <p>2 Q Who from Takeover would have negotiated 3 those supplement loans with Mr. Deppoleto?</p> <p>4 A Pardon?</p> <p>5 Q Who from Takeover would have negotiated 6 the supplement loans with Mr. Deppoleto?</p> <p>7 A Probably Jason Tucker.</p> <p>8 Q And what were the terms of those 9 loans?</p> <p>10 A That, I don't know. I don't even know 11 if there was an agreement made, truthfully. I 12 don't know.</p> <p>13 Q Show you another document here.</p> <p>14 All right. So this is a letter on 15 Husch Blackwell letterhead dated November 8, 16 2022. Do you recognize this document?</p> <p>17 A Let's see.</p> <p>18 Q You are a recipient via e-mail --</p> <p>19 A Okay. I do -- I recall the document.</p> <p>20 Q It's titled, "Notice of default, demand 21 for payment, and cease and desist"; correct?</p> <p>22 A Correct.</p> <p>23 Q What was your reaction on receiving 24 this notice?</p> <p>25 A Can't recall specifically.</p>	<p style="text-align: right;">Page 129</p> <p>1 Q Did you discuss it with anyone after 2 you received it?</p> <p>3 A Can you scroll down, please.</p> <p>4 Q Sure.</p> <p>5 A Yeah. I think at that time -- now that 6 I'm looking at this, I believe I discussed it 7 with the lawyers.</p> <p>8 Q Okay. And I don't want to know about 9 the substance of your discussion with the 10 lawyers, but other than -- well, when you say 11 "the lawyers," which lawyers?</p> <p>12 A The company --</p> <p>13 Q I don't want to know what you talked 14 about with them. I just want to know who.</p> <p>15 A The company's counsel.</p> <p>16 Q Which was?</p> <p>17 A Jennifer Reiter.</p> <p>18 (Reporter clarification.)</p> <p>19 MR. HARVEY: R-e-i-t-e-r.</p> <p>20 BY MR. HARVEY:</p> <p>21 Q And it was your understanding that she 22 was Takeover's counsel as of November 8, 2022?</p> <p>23 Is that --</p> <p>24 A Right.</p> <p>25 Q -- why you were calling her the</p>

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1	company's counsel?	1 Mr. Deppoleto any money by this point?
2	A Correct. I believe so.	2 A I wasn't -- I have no clue what was
3	Q Did you discuss it with anyone other	3 paid or what wasn't paid or what was sent out --
4	than Ms. Reiter?	4 Q I don't think it's in dispute that he
5	A Not that I can recall.	5 wasn't paid anything by this point, so just
6	Q Not Mr. Holley, not Mr. McBride, no	6 assume that that's true.
7	one?	7 You would agree with me that that means
8	A I believe we probably all were on a	8 Takeover was in default in its obligations as of
9	call to discuss it.	9 this point; correct?
10	Q Any time you were on a call outside of	10 A Like I said, I don't know. I mean, if
11	the presence of counsel?	11 that was the case, but like I said, I was never
12	A Not that I can recall.	12 on any bank account. Never made any payments.
13	Q Okay. And just generally speaking, you	13 Never saw transactions. So I really don't know
14	understood that in this letter Mr. Deppoleto was	14 what was paid out or what was done.
15	providing notice to Takeover that it defaulted on	15 Q As far as you're aware, after receiving
16	Mr. Deppoleto's loans; correct?	16 this notice, did Takeover begin a process to
17	A Correct.	17 repay Mr. Deppoleto's loans?
18	Q Did you agree that Takeover defaulted	18 A I'm not sure.
19	on its obligations to Mr. Deppoleto?	19 Q Are you aware of after receiving this
20	A I don't believe so.	20 notice whether Takeover began a process to cure
21	Q You don't believe Takeover defaulted on	21 the default?
22	its obligations to Mr. Deppoleto; is that what	22 A I'm not sure.
23	you're telling me?	23 Q To your knowledge, to date, has
24	A I'm not quite sure.	24 Takeover paid any amount of the funds that
25	Q Had Mr. -- or had Takeover repaid	25 Mr. Deppoleto loaned to Takeover?
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1	A That, I'm not sure.	1 A Correct.
2	Q Should Takeover repay Mr. Deppoleto?	2 Q You've seen this before?
3	A I believe he has been issued shares.	3 A I --
4	And I believe that we have been trying to settle.	4 Q Second notice of default and demand for
5	I believe that Mr. Deppoleto is, as an investor,	5 payment. I can scroll down through it, if you'd
6	deserving of something, but the full amount of in	6 like.
7	discussion, the way that it went down, I think	7 A Correct.
8	it's -- that's not appropriate.	8 Q Now, as of this date, your e-mail
9	Q And that's because you disagree with	9 address was joe@takeoverind.com; correct?
10	the way that Takeover spent the money once it	10 A Correct.
11	received it from Mr. Deppoleto, as you've	11 Q And that's a Takeover Industries e-mail
12	explained several times; correct?	12 address?
13	A Yes.	13 A Correct.
14	Q And it's not because you're claiming	14 Q So the company was still operating as
15	that Mr. Deppoleto didn't provide over \$2	15 of that date; true?
16	million; true?	16 A I'm not sure. I don't believe -- I
17	A No, I'm not saying that.	17 just -- I mean, the e-mail was still active, but
18	Q Take this one down.	18 I'm not sure the company was operating.
19	Okay. I've got another document up	19 Q Okay. After you received this
20	here. This one, again, is on Husch Blackwell	20 document, did you discuss it with anyone?
21	letterhead. It's dated November 22, 2022. Do	21 A Discussed it with the attorney.
22	you see that?	22 Q Ms. Reiter again?
23	A Yes.	23 A Correct.
24	Q And, again, you're copied via e-mail	24 Q Did you discuss it with anyone outside
25	only; correct?	25 of the presence of Ms. Reiter?

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1	A I don't believe so.	1 Q Did Takeover --
2	Q After receiving this notice, did	2 A I probably -- I mean, the only time it
3	Takeover begin a process to repay Mr. Deppoleto's	3 was first brought up was when we did the deal.
4	loans?	4 Like, in early 2021, we talked about doing the
5	A I'm not sure.	5 spinoff, but then, like I think after that it
6	Q Why not?	6 wasn't really -- it may have just been brought
7	A Because I was not really involved in	7 up, like, oh, are you going to do the spinoff,
8	the financial transactions. I don't know what	8 but I think the main, initial focus was like
9	was paid or wasn't.	9 probably early 2021.
10	Q Has Takeover ever considered a spinout	10 Q It -- say a little more about that.
11	or a spinoff?	11 What were you -- why in early 2021? What spinoff
12	A I believe that was in the discussion.	12 were you talking about then?
13	Q When was that?	13 A Well, that was just when we first did
14	A That, I don't know.	14 the deal --
15	Q Even ballpark's fine if you don't	15 Q Deal with whom or what?
16	remember the exact date.	16 A When Labor SMART acquired Takeover, at
17	A I mean, the term was thrown out, you	17 that point in time there was, you know, some
18	know, here and there. I really -- be hard to	18 shareholders, people on Twitter were talking
19	pinpoint a date.	19 about is there going to be a spinoff, but that
20	Q 2021? 2022? 2023?	20 was like the only time it was really like brought
21	A I mean, probably was maybe mentioned	21 up and mentioned.
22	many times, but I really can't recall when.	22 Q And the concept was even though Labor
23	Q At any point after the lawsuit was	23 SMART had just purchased Takeover, you were
24	commenced?	24 talking about doing a spinoff shortly
25	A I don't believe so.	25 thereafter --
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1	A I wasn't talking about anything. I was	1 Q Are you aware of anyone else at
2	just -- you were asking me when I heard that term	2 Takeover seeking Mr. Deppoleto's consent to
3	being mentioned, and so I want to say it was	3 spinout Takeover?
4	early 2021.	4 A No, I'm not.
5	Q Was there ever consideration about	5 I think that whole thing got squashed
6	taking Takeover public?	6 when all the lawsuits were involved, and it was
7	A Well, Takeover was -- in a public	7 just a -- kind of a debacle.
8	company, so it was public --	8 Q We talked about it a little bit
9	Q From when to when? I'm asking for your	9 earlier, but you're aware of a lawsuit that
10	understanding. From when to when was Takeover	10 Takeover filed against Michael Holley in the
11	public?	11 District of Arizona?
12	A Well, that's -- I mean, it was -- I	12 A Correct.
13	mean, that's -- I mean, if you're saying that	13 Q And I'm not going to ask you to look
14	would have been what the spinoff would have been,	14 through the whole thing, but I'll just pull it up
15	so that would have been in early 2021, like	15 so you got some context.
16	March, April 2021.	16 This is the verified complaint from the
17	Q And so are you saying it was taken	17 District of Arizona case with Takeover Industries
18	public then or it was not?	18 listed as the plaintiff, and then Michael Holley
19	A Well, it wasn't spun off. It was just	19 and Chirine Holley -- I don't know if I'm
20	as it was.	20 pronouncing that right -- C-h-i-r-i-n-e, Holley
21	Q Why hasn't Takeover ever gone public?	21 and then a couple of other people; correct?
22	A I don't know.	22 A Correct.
23	Q Did you seek Mr. Deppoleto's consent to	23 Q And if we move it down, we can see that
24	spinoff Takeover?	24 it was filed on March 8, 2022; correct?
25	A I did not.	25 A Correct.

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<p style="text-align: right;">Page 138</p> <p>1 Q Now, you were still a member of 2 Takeover when this lawsuit was filed; correct?</p> <p>3 A I believe -- March 8, 2022, I was just 4 maybe coming back in.</p> <p>5 Q Okay. Did you review the complaint 6 before it was filed?</p> <p>7 A I can't recall.</p> <p>8 Q Did you provide any information for use 9 in the complaint?</p> <p>10 A Can't recall.</p> <p>11 Q Who approved the filing of the 12 complaint?</p> <p>13 A Most -- I can't recall. Could have 14 been Jason. I'm not sure.</p> <p>15 Q To your knowledge, is that lawsuit 16 still ongoing?</p> <p>17 A I believe it was dismissed.</p> <p>18 Q Did you ever tell Mr. Deppoleto about 19 the Arizona litigation?</p> <p>20 A I never spoke to Mr. Deppoleto about 21 that.</p> <p>22 Q Are you aware of anyone else from 23 Takeover notifying Mr. Deppoleto about the 24 Arizona litigation?</p> <p>25 A I'm not sure.</p>	<p style="text-align: right;">Page 139</p> <p>1 Q Are you aware of anyone disclosing the 2 Arizona litigation to Mr. Deppoleto before May 3 25, 2022?</p> <p>4 A Not sure. I think maybe Jason did. If 5 anybody did, he probably did.</p> <p>6 Q Are you aware of whether Takeover filed 7 the stipulation to dismiss all claims against 8 Michael and Chirine Holley in February 2023?</p> <p>9 A I believe so.</p> <p>10 Q Who at Takeover made the decision to 11 dismiss all the claims against the Holleys?</p> <p>12 A I'm not sure.</p> <p>13 Q Why did Takeover decide to dismiss all 14 the claims against the Holleys?</p> <p>15 A I believe because it was found to be 16 false. I'm not sure.</p> <p>17 Q Did Mr. Deppoleto ever give his consent 18 to dismiss or to have Takeover dismiss all of the 19 claims against the Holleys?</p> <p>20 A I'm not sure.</p> <p>21 Q Let me show you another document here. 22 This document is dated March 25, 2022, 23 and it says, "Related party receivable 24 confirmation." Do you see that?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 140</p> <p>1 Q And you see Toby McBride signed it; 2 correct?</p> <p>3 A Correct.</p> <p>4 Q And go ahead and read it to yourself, 5 and let me know when you're done reading. (Witness reviewing document.)</p> <p>6 A Okay. Done reading.</p> <p>7 Q Okay. So you'd agree with me that as 8 of March 25, 2022, Toby McBride owed Takeover 9 \$243,253.84; correct?</p> <p>10 A I mean, according to this document.</p> <p>11 Q Okay. And you never told Mr. Deppoleto 12 about the money that Mr. McBride owed Takeover; 13 correct?</p> <p>14 A I was instructed not to -- I mean, I 15 never -- I communicated with Mr. Deppoleto when I 16 met him, and that was it. So, I mean, I never 17 really engaged in much conversation.</p> <p>18 Q Okay. So you never told Mr. Deppoleto 19 about the money that Mr. McBride owed Takeover; 20 correct?</p> <p>21 A I don't believe so.</p> <p>22 Q We might have had a double-negative 23 there. Maybe that was my fault.</p> <p>24 Did you ever tell Mr. Deppoleto about</p>	<p style="text-align: right;">Page 141</p> <p>1 the money that Mr. McBride owed Takeover?</p> <p>2 A No, I did not. I --</p> <p>3 Q And you --</p> <p>4 A -- again, I was not involved in the 5 financial dealings with this.</p> <p>6 Q And are you aware of any other officers 7 or directors of Takeover notifying Mr. Deppoleto 8 about the money that Mr. McBride owed Takeover?</p> <p>9 A I'm not sure. I mean, maybe Jason. 10 That's -- that would be it.</p> <p>11 Q As far as you have personal knowledge 12 of, you're not -- you don't have any personal 13 knowledge of anyone -- any officer or director of 14 Takeover notifying Mr. Deppoleto about the money 15 that Mr. McBride owed Takeover; correct?</p> <p>16 A I'm -- that, I'm not sure. I don't 17 know. I mean, I didn't, but I don't know.</p> <p>18 Q Yeah. That's -- you don't have 19 personal knowledge of anyone else doing it 20 either; correct?</p> <p>21 A If I'm understanding the question, 22 correct.</p> <p>23 Q Has Takeover ever maintained directors 24 and officers liability insurance?</p> <p>25 A I'm not sure.</p>

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1	Q Who would know that?	1 until all that happened, then there was nothing
2	A I'm not sure.	2 left. But prior to that, there were -- there
3	Q Who was responsible for purchasing	3 would have been assets before everything was
4	insurance for the company?	4 destroyed.
5	A Probably -- Mike Holley would be the	5 Q But for how long have the liabilities
6	administrative.	6 been outweighing the assets? Since before
7	Q As we sit here today, are Takeover's	7 October 2022? Because it sounds like you're
8	liabilities worth more than its assets?	8 saying they had some assets, but they weren't
9	A Are Takeover's liabilities worth more	9 worth a whole heck of a lot.
10	than its assets?	A I --
11	Q Do its liabilities outweigh its	MR. SEXTON: Object to form.
12	assets?	A Yeah. I'm not sure I'm understanding
13	A Well, there are no assets, so I would	what -- the question.
14	have to say that the liabilities would outweigh	BY MR. HARVEY:
15	the assets.	Q Sure. I asked you for how long have
16	Q And for how long has that been the	Takeover's liabilities outweighed its assets.
17	case?	And I thought initially you were saying October
18	A Since the company was run into the	2022, because you said that was when the
19	ground after the Dollar General deal and after	trademark expired and the Dollar General deal
20	the trademark expired in probably October of	fell through.
21	2022.	But then it sounded like you thought
22	Q So at least since October of 2022,	about it a little more, and you said, well,
23	Takeover's liabilities have outweighed its	actually -- it sounded like you thought the
24	assets; correct?	assets weren't worth a lot even before October
25	A No. Probably after that. Because	2022. So the date could have been even earlier
	Page 144	Page 145
1	than October 2022, where the liabilities	1 Q Okay. And so you're saying whatever
2	outweighed the assets. That's what I'm getting	2 the date on those agreements was, as of the date
3	at. Do you understand?	3 of those agreements, Takeover's liability
4	A Okay. Yeah, no, it was -- I wasn't	4 outweighed its assets; is that correct?
5	quite sure how you were phrasing that. "I think"	A I would probably say that's correct.
6	the major liabilities that came into play, now	Q Okay. Let me show you another document
7	that I'm understanding what you're asking, would	here.
8	be the PFL debt and the Manny debt that Jason	So this is a multi-page document that I
9	signed on, which were major liabilities. And so	will tell you your lawyers produced in discovery.
10	those were, you know, again, on Jason Tucker for	You can see at the top it's a Bank of America
11	that.	statement. I'm not going to ask you about every
12	So, I mean, however -- I mean, I don't	single thing on here.
13	have those contracts in front of me, but I know	But what I did want to ask you about
14	they were multi-year contracts that he committed	is, we go down, see, there's these Bates numbers
15	to. So there was --	in the bottom right corner. We look at DEF 78,
16	Q I understand --	and we've got some highlighted. You see these
17	A -- there was -- there was liabilities	highlighted right here?
18	and debt brought on by Jason prior with those	A Yep.
19	commitments, so...	Q And this particular thing that I'm
20	Q So whatever the date of those	highlighting is an airline ticket with a
21	agreements were -- and by the PFL debt, you're	departure date of April 26, 2022; correct?
22	distinguishing that from the Manny Pacquiao debt;	A Correct.
23	correct? Or is that the same thing?	Q And it says you're going to airport
24	A No, they're two separate agreements,	code Cleveland; correct?
25	two separate debts.	A Correct.

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<p style="text-align: right;">Page 146</p> <p>1 Q What was the purpose of this flight? 2 A That was probably a flight to -- 3 probably to an event. 4 Q Do you remember the event? 5 A Actually -- yeah. It was the PFL -- 6 there was a PFL event because airport code DFW. 7 Yeah. So I was probably going from Cleveland to 8 DFW for the PFL event. 9 There was a couple events that -- in 10 Dallas-Fort Worth, one of which we met Deppoleto 11 at in May. 12 Q Okay. And your testimony that these 13 were legitimate business expenses for Takeover? 14 A Correct. Yeah. They would have -- I 15 never -- I mean, they would have been booked by 16 the company, so, yeah, they would have had to 17 have been business expenses. 18 Q Okay. And then we've got some 19 highlighted on the next page, too. These are May 20 3rd? 21 A Yep. That was right when I was 22 boarding the plane when Jason was forcing me to 23 sign over my shares with the extortion. And that 24 was when I was going in to DFW for the PFL 25 event.</p>	<p style="text-align: right;">Page 147</p> <p>1 Q Okay. Take that one down. And we've 2 got another document. It's basically the same 3 layout. Show you right now. 4 This one starts off Bates DEF 000110. 5 This is June to July 2022 expenses; correct? 6 A Correct. 7 Q And then if we go down, we've got an 8 airline ticket for -- the flight's going to be 9 June 21, '22? 10 A Yep. That's when we went to meet James 11 Deppoleto and Jason in Atlanta for the PFL in 12 Atlanta. And that's when they had the private 13 meeting with T-Pain that we were unaware of. 14 But, yeah, that was business travel. 15 Q Okay. You were there; you just didn't 16 go to the meeting? 17 A No. We actually -- we went there to 18 meet with James and Jason, and then they ended up 19 canceling the meeting. And that's -- later we 20 found out they went to meet with T-Pain 21 independently. But, yeah, that was a PFL 22 event. 23 Q Okay. And it's your testimony this was 24 a legitimate business expense? 25 A Absolutely.</p>
<p style="text-align: right;">Page 148</p> <p>1 Q Okay. Next one, we've got another 2 business expense. Starts off with DEF 124. You 3 go down a little bit. We've got another flight 4 with a departure date of August 3rd, 2022; 5 correct? 6 A Yep. That was going to New York, 7 LaGuardia, for the -- another PFL event. That 8 was the PFL finale, I believe, late July in New 9 York. 10 Q And it's your testimony this was a 11 legitimate business expense? 12 A Correct. 13 Q Have you heard of a company called 14 Illumination Holdings, Inc.? 15 A I have. 16 Q What is Illumination Holdings, Inc.? 17 A I'm not sure exactly what they do. 18 Q What have you heard about them -- 19 A I believe -- I believe they're a brand. 20 They're like a distribution company or brand 21 incubator. 22 Q Is Illumination Holdings, Inc., 23 affiliated with Takeover? 24 A I don't believe so. 25 Q Is Illumination Holdings, Inc.,</p>	<p style="text-align: right;">Page 149</p> <p>1 affiliated with Next Gen? 2 A Yes, I believe so. 3 Q How so? 4 A I believe they are affiliated via a 5 merger or acquisition. 6 Q When was this? 7 A According to Twitter and the news, I 8 don't know the exact date, but within the last 9 few weeks. 10 Q Did you have anything to do with 11 negotiations over that merger or acquisition? 12 A I was not involved in any negotiations. 13 And I believe it was with LTNC, not Next Gen. 14 Q How about a company called -- that 15 was -- and just to clarify, that was Illumination 16 Holdings, Inc. 17 Now, I'm asking about a different 18 company, Illumination Brands, Inc. Have you ever 19 heard of Illumination Brands, Inc.? 20 A I have. And they're probably 21 affiliated with those two entities. 22 Q Is Illumination Brands, Inc., 23 affiliated with Takeover? 24 A No, not that I believe. 25 Q Is it affiliated with Next Gen?</p>

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<p style="text-align: right;">Page 150</p> <p>1 A No. I believe it's affiliated with 2 LTNC.</p> <p>3 Q And is your understanding the same as 4 basically the other one we were talking about? 5 It was either a merger or an acquisition?</p> <p>6 A Correct. That's my understanding.</p> <p>7 Q Do you know a gentleman name Brad 8 Wyatt, W-y-a-t-t?</p> <p>9 A I don't know him personally, but I know 10 the name.</p> <p>11 Q Who is he?</p> <p>12 A I'm not sure his exact role, but he is 13 involved with the Illumination company at some 14 level.</p> <p>15 Q Does Brad Wyatt have any affiliation 16 whatsoever with Takeover?</p> <p>17 A No, not that I'm aware of.</p> <p>18 Q Does he have any affiliation with Next 19 Gen?</p> <p>20 A I believe he has affiliations with 21 LTNC.</p> <p>22 Q How about a gentleman named Mike Ghini? 23 Do you know a Mike Ghini?</p> <p>24 A No, I don't.</p> <p>25 Q Might be spelled G-h-i-n-i.</p>	<p style="text-align: right;">Page 151</p> <p>1 A Mike Ghini? Doesn't sound familiar. 2 Q So you don't know one way or another 3 whether he has any affiliation with Next Gen?</p> <p>4 A Mike Ghini, no. Name doesn't sound 5 familiar.</p> <p>6 Q To your knowledge, what's the 7 distinction between Next Gen Beverages, LLC, and 8 Next Gen Holdings?</p> <p>9 A Next -- one would be an IP. I believe, 10 if I'm not mistaken, one's the IP holding 11 company, and the other is the operational, 12 actually company.</p> <p>13 Q Which one do you believe is the IP 14 holding company?</p> <p>15 A Probably the one called Next Gen 16 Holdings.</p> <p>17 Q And to your knowledge, what's the point 18 of separating those out?</p> <p>19 A I'm not sure. Probably to hold IP.</p> <p>20 Q Did you have any -- well, do you know 21 when Next Gen Holdings came into existence?</p> <p>22 A I'm not sure.</p> <p>23 Q Do you know who set it up?</p> <p>24 A I'm not sure.</p> <p>25 Q Do you know who's on the board of Next</p>
<p style="text-align: right;">Page 152</p> <p>1 Gen Holdings?</p> <p>2 A I'm not sure who all is on the board. 3 I would maybe guess Tom Zarro and Mike Holley, 4 but I don't know if there's anybody else. I 5 haven't reviewed any of that paperwork.</p> <p>6 Q Other than the entities that we've 7 talked about -- and I can go through a list if 8 you want -- are you aware of any other LTNC 9 affiliates other than the ones we've just talked 10 about, that we talked about at the beginning? So 11 you want me to go through it or?</p> <p>12 A No. Not that I'm aware of.</p> <p>13 Q Have any of Labor SMART or any of the 14 other affiliates that we've talked about received 15 any payments or any form of compensation from 16 Takeover?</p> <p>17 A Not that I'm aware of.</p> <p>18 Q Have any of them received any assets 19 from Takeover?</p> <p>20 A Not that I'm aware of.</p> <p>21 Q Have any of them received any payments 22 or any other form of compensation from Next 23 Gen?</p> <p>24 A Not that I'm aware of.</p> <p>25 Q Have any of them received any assets</p>	<p style="text-align: right;">Page 153</p> <p>1 from Next Gen?</p> <p>2 A Not that I'm aware of.</p> <p>3 Q When Takeover got the payments from 4 Mr. Deppoleto, how did Takeover book them in its 5 accounting books?</p> <p>6 A That would be a Jason Tucker question.</p> <p>7 I don't know.</p> <p>8 Q Okay. After the payments came in 9 from --</p> <p>10 A Or that -- or that actually would be a 11 Marty question, but there was another individual 12 that I was told not to contact. He --</p> <p>13 Q Who's Marty?</p> <p>14 A He was the company CFO.</p> <p>15 Q What's his last name?</p> <p>16 A I don't know.</p> <p>17 Q You're talking about Marty was the CFO.</p> <p>18 A I believe he was the one doing the 19 bookings.</p> <p>20 Q And then you said there was another 21 individual who you were told not to contact?</p> <p>22 A That's the same guy. Jason Tucker at 23 the time -- you were asking me when the Deppoleto 24 transactions were going. That would probably be 25 at that time.</p>

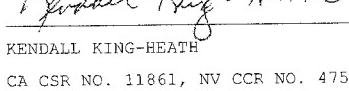
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<p>1 Q When the payments came in, who did you 2 discuss them with in terms of what to do with 3 this money?</p> <p>4 A No one. Because I was unaware when 5 they were coming in. That was not my -- I was 6 not involved in anything to do with the money or 7 the payments. I was just products and 8 formulation.</p> <p>9 Q Who all was involved in the decision to 10 establish Next Gen and the other entities that 11 were created after we filed this lawsuit in 12 December 2022?</p> <p>13 A I believe Mike Holley and Tom Zarro, if 14 I'm not mistaken.</p> <p>15 Q Anyone else?</p> <p>16 A I don't know if there's anyone else.</p> <p>17 Q And do you know how soon after this 18 lawsuit was filed, December of 2022, how soon 19 after it was that Mr. Holley and Mr. Zarro began 20 establishing Next Gen and the other entities?</p> <p>21 A I'm not sure.</p> <p>22 Q As we sit here today, is Takeover still 23 selling any products whatsoever?</p> <p>24 A I don't believe so. I haven't been 25 involved since, you know, the demise of the</p>	<p>1 company.</p> <p>2 Q To your knowledge, when was the last 3 time that Takeover was selling products?</p> <p>4 A I would probably -- I'm not quite sure. 5 Maybe late 2022.</p> <p>6 Q Next Gen is still selling products 7 today; correct?</p> <p>8 A Is Next Gen selling Next Gen products 9 today?</p> <p>10 Q Yes.</p> <p>11 A I -- yes. I believe so --</p> <p>12 Q And it has been selling products since 13 shortly after it opened in 2023; correct?</p> <p>14 A To the best of my knowledge, yes.</p> <p>15 Q And to your knowledge, Next Gen 16 Holdings doesn't sell any products, then; it just 17 holds IP?</p> <p>18 A I believe so.</p> <p>19 Q Show you another document.</p> <p>20 A Are you able to see this document?</p> <p>21 A If you could please enlarge it.</p> <p>22 Q It says at the top, "Declaration of 23 Joseph Pavlik"; correct?</p> <p>24 A Correct.</p> <p>25 Q And this is a document that you</p>
Page 156	Page 157
<p>1 reviewed and signed; correct?</p> <p>2 A Correct.</p> <p>3 Q On November 14th, 2022?</p> <p>4 A Correct.</p> <p>5 Q Now, in paragraph 4, the first sentence 6 says, "Some information has been uncovered this 7 week by Mike Holley, which hopefully can help the 8 Court approve the efforts to have Jason removed 9 and the truth revealed"; correct?</p> <p>10 A Correct.</p> <p>11 Q And, again, this is dated November 14, 12 2022. So the week you're referring to must have 13 been right around then; true?</p> <p>14 A Correct.</p> <p>15 Q What information are you referring to 16 there?</p> <p>17 A I believe that there were e-mails that 18 were found that he was communicating with 5-Hour 19 Energy to conspire to take the Gamer Shot to 20 5-Hour. There was evidence that after June of 21 2022, when he said that we are no longer having 22 company meetings and he's going to communicate 23 with everyone individually, we stopped having all 24 company meetings, all weekly conference calls. 25 And here it turns out they still -- we</p>	<p>1 were getting records because Mike Holley found 2 all the e-mail records of Jason that there still 3 were being weekly calls being held with 4 Mr. Deppoleto, with Mike Costello. There was 5 extensive communication between them and Living 6 Essentials or the 5-Hour Energy company. So it 7 showed that there was definitely, you know, 8 inappropriate behavior and, you know, potential 9 criminal activity going on.</p> <p>10 Q And the information --</p> <p>11 A And then what I mentioned right there 12 about, he also informed our company CPA -- that 13 was when at that time I reached out to them, and 14 I was -- wasn't able to get a hold of them. But 15 that was pretty much essentially the gist of 16 that.</p> <p>17 Q And the information you're talking 18 about Mr. Holley uncovering, how did Mr. Holley 19 uncover it?</p> <p>20 A I believe they were e-mails.</p> <p>21 Q Okay.</p> <p>22 A E-mail records.</p> <p>23 And also, there was some evidence that 24 there was an attempt to change the bylaws of the 25 company by Jason. So all of that was dug through</p>

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<p>1 in going through his e-mails.</p> <p>2 Q Then in paragraph 7 you say, "Since</p> <p>3 June of 2022, he's isolated James Deppoleto,</p> <p>4 developed his trust over several private</p> <p>5 meetings, potentially gave him select</p> <p>6 information, which then led James and</p> <p>7 Jason strategically -- led to James and Jason</p> <p>8 strategically collaborating without sharing their</p> <p>9 intent or motives with the other partners and</p> <p>10 executives"; correct?</p> <p>11 A Correct. And that had to do with</p> <p>12 the -- you know, saying there was no more company</p> <p>13 meetings, but yet, there was still company</p> <p>14 correspondence going on. And they were still</p> <p>15 collaborating to do the Dollar General deal. And</p> <p>16 they were also, without my knowledge,</p> <p>17 collaborating and trying to do a deal with 5-Hour</p> <p>18 Energy, so -- that's correct.</p> <p>19 Q But you don't have any personal</p> <p>20 knowledge about this; correct? Because if you</p> <p>21 look at, for instance, the next paragraph, 7, you</p> <p>22 say, "I've been at a distance for some time with</p> <p>23 all that's been going on."</p> <p>24 A Right. I was at a distance in terms of</p> <p>25 communication with Jason and Deppoleto, but the</p>	<p>Page 158</p> <p>1 e-mails that were reviewed were very factual.</p> <p>2 And I even had a call with 5-Hour to confirm that</p> <p>3 they did have that meeting at NACS in Las Vegas.</p> <p>4 And, coincidentally, I volunteered on my own dime</p> <p>5 to fly out to NACS for that trade show because I</p> <p>6 felt it was important.</p> <p>7 And I was -- that was when I was still</p> <p>8 not being invited to the show. Jason Tucker told</p> <p>9 me, no, James and I aren't going to the show;</p> <p>10 we're just going to leave it for Mike T. and Mike</p> <p>11 Z. to go, let it be the Mike show. And then the</p> <p>12 day after the first day of the NACS show, there's</p> <p>13 a picture of James, Jason, Mike and Mike</p> <p>14 receiving the Gamer Shot product of the year</p> <p>15 award, and they had just told me two days prior</p> <p>16 that James and Jason weren't going.</p> <p>17 So, again, I didn't know this at the</p> <p>18 time, but then once I found -- we found the</p> <p>19 e-mails later on, it was evident that they did</p> <p>20 not want me there because they were having that</p> <p>21 private deal to take my Gamer Shot to 5-Hour</p> <p>22 Energy to then work a deal, some type of a</p> <p>23 licensing agreement.</p> <p>24 And then also in those e-mails we</p> <p>25 uncovered that there was another presentation</p>
<p>1 that was done without my name on it. It was just</p> <p>2 James, Jason, Mike and Mike to be presented to</p> <p>3 5-Hour about that deal that they were trying to</p> <p>4 collaborate, form another company and raise some</p> <p>5 additional money. So that was the reason why I</p> <p>6 put that information in there -- in that</p> <p>7 document.</p> <p>8 MR. HARVEY: All right. Let's go off</p> <p>9 the record for two seconds. I just want to go</p> <p>10 over my notes and make sure I didn't miss</p> <p>11 anything. We might be done.</p> <p>12 THE VIDEOGRAPHER: We're off the record</p> <p>13 at 4:24 p.m.</p> <p>14 (Break taken.)</p> <p>15 THE VIDEOGRAPHER: We're back on the</p> <p>16 record at 4:26 p.m.</p> <p>17 MR. HARVEY: Subject to -- we're</p> <p>18 reserving the right to call Mr. Pavlik back</p> <p>19 because we don't have some documents that were</p> <p>20 missing from the Defendants, but other than that,</p> <p>21 I have nothing further at this time.</p> <p>22 MR. SEXTON: And I don't have any</p> <p>23 questions at this time.</p> <p>24 THE VIDEOGRAPHER: Counsel, are we</p> <p>25 prepared to go off the record?</p>	<p>Page 160</p> <p>1 MR. HARVEY: Yes.</p> <p>2 MR. SEXTON: Yeah.</p> <p>3 THE VIDEOGRAPHER: Okay. And does our</p> <p>4 court reporter need anything before we do go off</p> <p>5 the record?</p> <p>6 THE REPORTER: Mr. Sexton, do you need</p> <p>7 a copy for your side?</p> <p>8 MR. SEXTON: We'll read and sign. I</p> <p>9 don't need a copy right now, but we'll read and</p> <p>10 sign.</p> <p>11 THE VIDEOGRAPHER: All right. We are</p> <p>12 off the record at 4:26 p.m.</p> <p>13 (Whereupon the deposition was</p> <p>14 concluded at 4:26 p.m.)</p>

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RE: JAMES DEPOOLETO v TAKEOVER INDUSTRIES, INC.				Page 162	Page 163 REPORTER'S CERTIFICATE.
CERTIFICATE OF DEPONENT					
PAGE	LINE	CHANGE	REASON		
1				1	I, the undersigned, a Certified
2				2	Shorthand Reporter of the states of California
3				3	and Nevada, do hereby certify:
4				4	That the foregoing proceedings were
5				5	taken before me at the time and place herein set
6				6	forth; that any witnesses in the foregoing
7				7	proceedings, prior to testifying, were placed
8				8	under oath; that a verbatim record of the
9				9	proceedings was made by me using machine
10				10	shorthand which was thereafter transcribed under
11				11	my direction; further, that the foregoing is an
12				12	accurate transcription thereof.
13				13	I further certify that I am neither
14				14	financially interested in the action nor a
15				15	relative or employee of any attorney of any of
16				16	the parties.
17				17	IN WITNESS WHEREOF, I have this date
18				18	subscribed my name.
19				19	Dated: September 4, 2024
20				20	
21				21	
22				22	
23				23	
24				24	KENDALL KING-HEATH
25				25	CA CSR NO. 11861, NV CCR NO. 475

JOSEPH F. PAVLIK
Deponent

U.S. Legal Support - www.uslegalsupport.com

EXHIBIT L

EXHIBIT L



NXT LVL

Fall Update

Time: 11:00-11:30 EST / 10:00-10:30 CST

Date: October 7, 2022

Hello James!

I appreciate your time on the call this morning.

As a follow up to our last call, I wanted to speak with you bi-weekly to understand your growing insight into the industry and also provide you with some educational strategy points as to how we tie in science/beverage/messaging to help drive both distributor sales and DTC (Direct to Consumer)

Brief Items to Touch on for Discussion

1. NACS Report From Your View
2. Spin Out Perspective
3. McBride Situation Accountability
4. Takeover Joe Comeback via Twitter (20,000 followers = \$500K in DTC Sales 4/21)
5. Strategically Defining "CSO" as "Educational Entertainment" After Spin-Out
6. NXT LVL Nootropics – Market Growth & DTC play
7. Fall Travel and In-Person Meeting – in WI, OH or Other.
8. Open Questions for Joe

Look forward to speaking with you!

Joe Pavlik - BS, MS, CSCS
Founder | Director
Chief Science Officer
Takeover Industries Inc.
NXT LVL USA

DEF01458

EXHIBIT M

EXHIBIT M

Partnership with Shaquille O'Neal

Below is what NXT LVL needs to do to partner with Shaquille O'Neal:

- \$5 -10 million cash up front to Shaq
- \$5-10 million worth of stock in NXT LVL Brands
- 10% of yearly sales on Shaq product(s) (paid end of year)
- 5% NXT LVL annual sales all products if Shaq invests (paid end of year)
- Seat on the NXT LVL Board of Directors
- Shaq will work with NXT LVL on naming, flavoring, packaging and design of cans and participate in the R&D process
- Official Drink of NRG Esports (Shaq's Esports league/team)
- January 2023 product launch
- Introduce and promote Shaq's NXT LVL Gamer Energy Drink at Trade Shows & trade publications in Q4 2022
- LA Libations will be the National partner to take to retail
- Danny Stepper from LAL will receive 1-2% of what we pay Shaq for facilitating the deal

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APPEARANCES AND SOCIAL MEDIA ON BEHALF OF NXT LVL ENERGY DRINK:

APPEARANCES

- NACS Convention and Trade Show
- Rewired Fest for Wal-Mart
- 7-11 National Franchisee Show
- Visit National Retailer HQ to meet buyers and CEO secure agreements/partnerships
- Will call CEO's of national retailers to request that they bring in Shaq's NXT LVL Energy Drink

SOCIAL MEDIA:

- Organic posts on all social media platforms
- Announce new stores
- Drink and enjoy NXT LVL on all platforms

MARKETING & ADVERTISING:

- Print ads for NXT LVL Energy Drink
- Drink NXT LVL on NBA Tonight and have can present sitting with him while on TV

RETAIL MARKETING:

- Use Shaq's image for retail displays
- Use Shaq's image on NXT LVL cans and packaging

NXT LVL EVENTS:

- NXT LVL participate and sample at Super Bowl (Shaq's Fun House)
- NXT LVL participate and sample at Shaqtober celebration
- NXT LVL participate and sample at Shaq Dj events
- Sampling events at NBA games

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LIBATIONS – SHAQUILLE ENERGY DRINK

- Will replicate the ZOA marketing approach
 - 2-3% of yearly sales on Shaq product(s) (paid end of year)
- Will represent Shaq's NXT LVL Energy Drink on National level
- Will secure Wal-Mart agreements
- NXT LVL will end water relationship with LAL and move to National coverage on Shaq's Drink
 - Deal could be completed by end of July
- Danny Stepper is requesting 1-2% as a fee to complete the deal (same as he did with ZOA and the Rock)
 -

INFO REQUESTED

- Proof that funds will be available to support the deal
- Balance Sheet
- Cap Table
- LA Libations will create a compelling presentation to share with Shaq

EXHIBIT N

EXHIBIT N

NXT LVL /5-hour Energy Accelerator Partnership:

- 5-hour Energy will invest in NXT LVL's parent company. The investment will provide Living Essentials LLC with a stake in the company and its brands. The investment will allow the NXT LVL Gamer brand to grow and become a part of the 5-hour Energy family.
- NXT LVL Company will operate as a separate business entity, using its own employees and management
- NXT LVL Company will work with 5-hour Energy to define collective goals.
- Support NXT LVL Gamer Shot, T-Pain's NXT LVL Gamer Shot, and future products to include T-Pain's NXT LVL Gamer Energy Drink.
- NXT LVL will have access to the 5-hour Energy marketing, supply chain, manufacturing, and distribution networks.
- NXT LVL can serve as an R&D arm for 5-Hour to test new products and take products to market.
- NXT LVL will continue to create brand extensions on the Gamer Shots, T-Pain's NXT LVL Gamer Shots (Gamer Drinks), and the additional beverages in its expansion plan.
- Upon an agreed period of time, Living Essentials LLC will have the option to purchase the NXT LVL Brand and/or its Gamer line.
- Post NDA, further information on existing distribution commitments and expansion can be provided.

Why is NXT LVL a good fit to partner with 5-Hour:

- T-Pain's NXT LVL Gamer Shot won "Best New Product of the Year" from CSP News in the Energy Category.
- NXT LVL is targeting a demographic (gamers) that 5-Hour is not directly targeting.
- NXT LVL has already penetrated the Gamer market.
- NXT LVL has already developed our formula, and packaging, and taken it to market.
- Expansion initiatives include distribution in Canada and Asia-focused products with Manny Pacquiao.
- NXT LVL is aligned with celebrities (T-Pain) to help promote our product.
- Our projected sales are phenomenal for a start-up energy-shot company.
- NXT LVL products are already in and are soon to be launching in major retailers across the country and across all retail channels
- NXT LVL is aligned with the leading beverage broker in the country, LA Libations.
- NXT LVL team is experienced in the shot and beverage categories.
- NXT LVL is in the R&D process of creating brand extensions (Gamer Energy Drinks).

EXHIBIT P

EXHIBIT P

FAMILY DOLLAR
VENDOR FUNDING INVOICE

VENDOR:	TAKEOVER INDUSTRIES INC	VENDOR#	20165
ADDRESS:	119 E UNION ST STE B PASADENA, CA 91103	INVOICE#	VF-12646179
		DATE:	11/02/2022
ATTN:	AMOUNT DUE: 3,047,200.0000		

DESCRIPTION: Slotting Fees T-Pain Energy Shot

VF TYPE	IMPACT	NMDSE CODE	GL CODE	DEPT / CAT	SKU	UNITS	UNIT COST	AMOUNT
Slotting Allowance (SA)		COGS	MURADJ	500090	9 / 344			*****
Total:								3,047,200.0000

DEF00825

EXHIBIT O

EXHIBIT O

Loan Agreement

This Loan Agreement (the "Agreement") is made and entered into as of 9-18-23 by and between Next Gen Beverages LLC., a Wyoming LLC with a principal place of business located at 125 S King St. STE 2A , Jackson, WY 83001 (the "Lender"), and Takeover Industries Inc., a Nevada Corp. with a principal place of business located at 401 Ryland St. Reno, NV 89502 (the "Borrower").

1. Loan Amount \$10,000.00

1.1 Loan Amount: The Lender agrees to lend to the Borrower the sum of \$10,000.00 (the "Loan Amount").

2. The Borrower agrees to re-pay the lender for the loan amount.

Tom Zarro

Next Gen Beverages LLC.

Mark Higley

Takeover Industries Inc.

Loan Agreement

This Loan Agreement (the "Agreement") is made and entered into as of 8-7-24 by and between Next Gen Beverages LLC., a Wyoming LLC with a principal place of business located at 125 S King St. STE 2A , Jackson, WY 83001 (the "Lender"), and Takeover Industries Inc., a Nevada Corp. with a principal place of business located at 401 Ryland St. Reno, NV 89502 (the "Borrower").

1. Loan Amount \$10,000.00

1.1 Loan Amount: The Lender agrees to lend to the Borrower the sum of \$10,000.00 (the "Loan Amount").

2. The Borrower agrees to re-pay the lender for the loan amount.

Tom Zarro

Next Gen Beverages LLC.

Nick Hilly

Takeover Industries Inc.

Loan Agreement

This Loan Agreement (the "Agreement") is made and entered into as of 6-29-23 by and between Next Gen Beverages LLC., a Wyoming LLC with a principal place of business located at 125 S King St. STE 2A , Jackson, WY 83001 (the "Lender"), and Takeover Industries Inc., a Nevada Corp. with a principal place of business located at 401 Ryland St. Reno, NV 89502 (the "Borrower").

1. Loan Amount \$15,000.00

1.1 Loan Amount: The Lender agrees to lend to the Borrower the sum of \$15,000.00 (the "Loan Amount").

2. The Borrower agrees to re-pay the lender for the loan amount.

Tom Zarro

Next Gen Beverages LLC.

Mark H. Higley

Takeover Industries Inc.

Loan Agreement

This Loan Agreement (the "Agreement") is made and entered into as of 5-20-24 by and between Next Gen Beverages LLC., a Wyoming LLC with a principal place of business located at 125 S King St. STE 2A , Jackson, WY 83001 (the "Lender"), and Takeover Industries Inc., a Nevada Corp. with a principal place of business located at 401 Ryland St. Reno, NV 89502 (the "Borrower").

1. Loan Amount \$6,000.00

1.1 Loan Amount: The Lender agrees to lend to the Borrower the sum of \$6,000.00 (the "Loan Amount").

2. The Borrower agrees to re-pay the lender for the loan amount.

Tom Zarro

Next Gen Beverages LLC.

Mitchell H. Higley

Takeover Industries Inc.

Loan Agreement

This Loan Agreement (the "Agreement") is made and entered into as of 5-15-24 by and between Next Gen Beverages LLC., a Wyoming LLC with a principal place of business located at 125 S King St. STE 2A , Jackson, WY 83001 (the "Lender"), and Takeover Industries Inc., a Nevada Corp. with a principal place of business located at 401 Ryland St. Reno, NV 89502 (the "Borrower").

1. Loan Amount \$5,000.00

1.1 Loan Amount: The Lender agrees to lend to the Borrower the sum of \$5,000.00 (the "Loan Amount").

2. The Borrower agrees to re-pay the lender for the loan amount.

Tom Zarro

Next Gen Beverages LLC.

Mitchell H. Hargrove

Takeover Industries Inc.

Loan Agreement

This Loan Agreement (the "Agreement") is made and entered into as of 4-29-24 by and between Next Gen Beverages LLC., a Wyoming LLC with a principal place of business located at 125 S King St. STE 2A , Jackson, WY 83001 (the "Lender"), and Takeover Industries Inc., a Nevada Corp. with a principal place of business located at 401 Ryland St. Reno, NV 89502 (the "Borrower").

1. Loan Amount \$5,000.00

1.1 Loan Amount: The Lender agrees to lend to the Borrower the sum of \$5,000.00 (the "Loan Amount").

2. The Borrower agrees to re-pay the lender for the loan amount.

Tom Zarro

Next Gen Beverages LLC.

Mike Hilly

Takeover Industries Inc.

Loan Agreement

This Loan Agreement (the "Agreement") is made and entered into as of 4-2-24 by and between Next Gen Beverages LLC., a Wyoming LLC with a principal place of business located at 125 S King St. STE 2A , Jackson, WY 83001 (the "Lender"), and Takeover Industries Inc., a Nevada Corp. with a principal place of business located at 401 Ryland St. Reno, NV 89502 (the "Borrower").

1. Loan Amount \$7,500.00

1.1 Loan Amount: The Lender agrees to lend to the Borrower the sum of \$7,500.00 (the "Loan Amount").

2. The Borrower agrees to re-pay the lender for the loan amount.

Tom Zarro

Next Gen Beverages LLC.

Mike Hilly

Takeover Industries Inc.

Loan Agreement

This Loan Agreement (the "Agreement") is made and entered into as of 3-8-24 by and between Next Gen Beverages LLC., a Wyoming LLC with a principal place of business located at 125 S King St. STE 2A , Jackson, WY 83001 (the "Lender"), and Takeover Industries Inc., a Nevada Corp. with a principal place of business located at 401 Ryland St. Reno, NV 89502 (the "Borrower").

1. Loan Amount \$10,000.00

1.1 Loan Amount: The Lender agrees to lend to the Borrower the sum of \$10,000.00 (the "Loan Amount").

2. The Borrower agrees to re-pay the lender for the loan amount.

Tom Zarro

Next Gen Beverages LLC.

Ashley

Takeover Industries Inc.

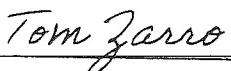
Loan Agreement

This Loan Agreement (the "Agreement") is made and entered into as of 3-1-24 by and between Next Gen Beverages LLC., a Wyoming LLC with a principal place of business located at 125 S King St. STE 2A , Jackson, WY 83001 (the "Lender"), and Takeover Industries Inc., a Nevada Corp. with a principal place of business located at 401 Ryland St. Reno, NV 89502 (the "Borrower").

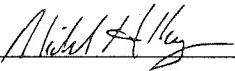
1. Loan Amount \$1,500.00

1.1 Loan Amount: The Lender agrees to lend to the Borrower the sum of \$1,500.00 (the "Loan Amount").

2. The Borrower agrees to re-pay the lender for the loan amount.



Next Gen Beverages LLC.



Takeover Industries Inc.

Loan Agreement

This Loan Agreement (the "Agreement") is made and entered into as of 2-14-24 by and between Next Gen Beverages LLC., a Wyoming LLC with a principal place of business located at 125 S King St. STE 2A , Jackson, WY 83001 (the "Lender"), and Takeover Industries Inc., a Nevada Corp. with a principal place of business located at 401 Ryland St. Reno, NV 89502 (the "Borrower").

1. Loan Amount \$4,000.00

1.1 Loan Amount: The Lender agrees to lend to the Borrower the sum of \$4,000.00 (the "Loan Amount").

2. The Borrower agrees to re-pay the lender for the loan amount.

Tom Zarro

Next Gen Beverages LLC.

Mark Hilly

Takeover Industries Inc.